

THE UNITED NATIONS' COMMISSION ON THE STATUS OF WOMEN

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1981.



## A B S T R A C T

This thesis is a study of the United Nations' Commission on the Status of Women from its establishment in 1946 to 1980. The study is divided into eight chapters examining the background to the Commission, its working methods, its place within the United Nations' system, the work of the Commission in the elaboration of international standards relating to the status of women and in the supervision of the implementation of these obligations, its decision making process, the role of the Women's International Non-Governmental Organisations in the work of the Commission, and, finally, an analysis of the 1980 Convention on the Elimination of All Forms of Discrimination Against Women. The thesis describes some of the changes which have taken place in the thirty-four years of activity in the Commission pointing out that the reasons for such developments lie in the changing composition of the Commission and the increasing interest of the political organs of the United Nations in questions relating to the status of women. The thesis concludes that the Commission needs to re-examine its role in the 1980s if it is to retain any credibility. As the Commission has already fulfilled many of the tasks which faced it in 1946 it now remains to be seen whether the Commission can ensure the implementation of the principles which it has helped to develop over the past thirty years.

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## LIST OF ABBREVIATIONS

ACC	Administrative Committee on Coordination.
AJIL	American Journal of International Law.
ECA	Economic Commission for Africa.
ECOSOC	Economic and Social Committee.
FAO	Food and Agriculture Organisation.
G.A.	General Assembly.
I.F.U.W.	International Federation of University Women.
ILO	International Labour Organisation.
L.N.T.S.	League of Nations Treaty Series.
N.G.O.	Non-Governmental Organisation.
P.L.O.	Palestine Liberation Organisation.
U.N.	United Nations.
UNESCO	United Nations Education, Scientific and Cultural Organisation.
UNICEF	United Nations Childrens Fund.
UNDP	United Nations Development Programme.
WINGO	Womens International Non-Governmental Organisation.
WHO	World Health Organisation.

## INTRODUCTION

This thesis is a study of the Commission on the Status of Women from its origins in 1946 to the present time. Originally the study was intended to cover the years 1946-1976, thus coinciding with the beginning of the United Nations' Decade For Women. However the study has been expanded to include both an analysis of the 1980 Convention on the Elimination of All Forms of Discrimination Against Women which had been in preparation from 1974 and a brief description of United Nations activities from 1975 to 1980, including the 1975 Mexico Conference for the International Women's Year and the first five years of the Decade for Women. As will become clear the latter activities are only of minor importance to the Commission itself.

The study is divided into eight chapters each one covering a different aspect of the work of the Commission. Chapter One is an attempt to place the Commission in some kind of historical context of organisations and ideas. Emphasis is on the development of a women's movement in America and Europe as it is out of this tradition that the Commission was born. The chapter shows the importance of women's non-governmental organisations in pressing for an international recognition of women's rights and for the eventual establishment of a United Nations Commission to further women's status. This chapter also describes activity within international organisations in the years preceding the establishment of the Commission.

Chapter two, a purely "legal" chapter, describes the institutional law of the Commission, the procedural rules which govern its working methods and the extent of its power and competencies. The chapter describes, inter alia, the formal framework within which the Commission takes decisions, and the role of non-governmental organisations in the meetings of the Commission. Both of these issues are taken up in later chapters.

Chapter three, presents the Commission in the context of the United Nations system and shows it as being a very small and relatively insignificant part in this system. The chapter also tries to show how the question of the status of women has been brought into the mainstream of United Nations activities by the insistence of the General Assembly on tying issues relating to the status of women to questions of

economic development. Hence the Commission has been brought into an expanding network of relationships with various organs and organisations within the United Nations family and involved in a series of programmes and activities in which it has some role to play.

Chapter four, is divided into two sections. The first, and longest, is a study of the various international conventions which have been adopted defining womens rights. The section follows the plan of the work programme of the Commission as it was adopted at its first session and includes political rights, rights in education and in employment, nationality and the family. The second section describes some of the activities and programmes of action which the Commission has helped to develop. As the role of the Commission was more pronounced in the elaboration of the Unified Long Term Programme for the Advancement of Women this programme is described more fully than the World Plan of Action adopted at the 1975 Conference and the Programme for the Decade, in the development of both of which the Commission played only a minor role.

Chapter five analyses the supervisory role of the Commission in its attempts to monitor the implementation of the international standards which are described in the previous chapter. Drawing on information and statistics from the reports of the Member States and the U.N. Secretariat, the chapter highlights the difficulties in establishing a reliable reporting system and the weaknesses which have become apparent in the various reporting procedures.

Chapter six, is devoted to a description of the decision making processes in the Commission. Taking up the points made in the second chapter on the formal procedure for decision making this chapter shows that decision making is a more complex matter. The chapter identifies sources of influence in the decision making process, the various actors in the system. It also attempts to analyse the kinds of decisions which are taken and shows the increased influence of the permanent secretariat as decisions become more technical in nature.

Chapter seven, discusses WINGOs, Women's International Non-Governmental Organisations. These Organisations are the forerunners of the U.N. Commission although their role in the Commission is rather limited. The chapter examines the various types of organisations which exist and concludes that, although they are attempting to expand their geographical

scope, they remain largely western based, middle-class organisations with limited funds, impact and influence. Nonetheless there is some evidence to show that the members of the Commission welcome the NGO representatives and admire the work of the WINGOs at a "grass roots" level.

Chapter eight is solely devoted to the 1980 Convention on the Elimination of All Forms of Discrimination Against Women and is an analysis of that Convention, which is probably the most important development in the international recognition of the rights of women. The Convention is "maximalist" in that it attempts to set out all the rights which should be granted to women and outlaws discrimination against women in the fields of civil law, education, employment, in public and political life, in marriage and the family, in provisions of public and penal law. As yet it is too early to say what the impact of this Convention will be or even to predict the number of ratifications which it will attract.

Having set out what the thesis attempts to do it is necessary to point out what the thesis does not attempt to do. Firstly it is a study of the work of an international organisation and not a study in comparative law. Therefore, although the thesis describes international standard setting activity it does not attempt to assess the impact of these standards on any one or on any group of states. Indeed the Secretary General's representative to the Commission on the Status of Women has concluded that an adequate assessment of the impact of decisions of the Commission on the legislation and practice of states is impossible. One of the assumptions of this thesis is that an accurate evaluation of the impact of international organisations which deal with human rights on the situation prevailing throughout the world cannot be made.

International Organisations which exist to improve social conditions may help improve those conditions, this is one of the principle tenets of the United Nations Charter, but social change is a result of many factors of which the impact of the work of an international organisation is only one, and a minor one at that. An overall assessment of the impact of the Commission on the actual status of women throughout the world is not therefore feasible. This is not to deny that the Commission has not had any influence at all but that the extent of that influence cannot be measured.



The second disclaimer which must be made relates to the selective nature of the thesis. Concentrating a study on the Commission might give the impression that it is the only or even the most important organisation actively pursuing a policy of improved rights for women. This is not the case. Other international organisations, such as the ILO, UNESCO, UNDP, as well as regional organisations such as the EEC all contribute to the growing international recognition of women's rights. However, the need to set defined boundaries to the thesis has led to the understatement of the role played by these organisations, especially that of the ILO. Similarly, the thesis does not enter into a discussion of the development of the new international feminist movements of the 1960s and 70s except where these had an influence on the Commission (and their influence was minimal). This is a regrettable omission as some of these developments proved quite exciting. Finally in this section it should be noted that the question of the continued existence of the Commission is in some doubt. In 1975 the Group of Experts on the structure of the United Nations system recommended the abolition of the Commission on the Status of Women<sup>1</sup>. The Experts suggested that the work of the Commission be taken over by ECOSOC itself. To date no action has been taken on this recommendation and it is unlikely that the Commission will be disbanded until at least the end of the Decade for Women (1985), if at all. In practice discontinuance would have little impact on the work of the UN system in relation to the status of women as the development of inter agency programmes and long term plans of action have, in any case, displaced the Commission already. This issue is discussed in Chapters three and five infra. The counter argument that the continued existence of the Commission ensures the continuing attention of the U.N. on women's issues is, however, quite strong and if plans go ahead to disband the Commission then there might well be loud opposition from both WINGOs and from members of the Commission itself.

Information for this study has been taken from several sources.

1. Primary Sources

(a) United Nations Documents

Reports of the meetings of the Commission are published by the United



Nations. These reports provide a summary of the debates and the decisions of the Commission. Debates are summarized in very general terms without, very often, attributing certain positions to particular delegates. This raises a difficulty for the reader in ascertaining such things as alliances, bargaining groups, and so on. Such detailed information is available in the summary records of the Commission most of which were unobtainable.

Reports prepared by the Secretary General on the implementation of the various international instruments and reports on communications were made available to me at the United Nations Library in New York. However, the original reports from governments and original communications are not available. One problem in reading the Secretary General's reports on these matters is that again they are sometimes rather general. Often precise figures are omitted as is the attribution of certain positions to particular states.

Finally, the United Nations has published documents relating to the Declaration on the Elimination of Discrimination Against Women, the Conventions on Nationality and the Political Rights of Women and the World Conference of the International Women's Year. A bibliography of all United Nations documents quoted in this thesis is provided.

(b) Interviews

I have been fortunate in being able to conduct a series of interviews with representatives of various NGOs, with some members of the Branch for the Promotion of Equality between Men and Women, and with some government representatives on the Commission itself. These latter interviews were largely haphazard, always informal and conducted between meetings of the twenty-sixth session of the Commission on the Status of Women (1976). Nonetheless all the interviewees provided a great deal of information and insight into "what goes on" in the Commission. Without these interviews, particularly with NGO representatives and members of the United Nations Secretariat my understanding of the Commission would have been considerably diminished.

(c) Attendance at the twenty-sixth session

I attended the twenty-sixth session of the Commission (1976) as a representative of an NGO, UFER (Union Fraternelle Entre Les Races),

by arrangement with the General Secretary of that organisation to whom I am indebted. As an NGO representative I was able to attend on the floor of the meetings and, in a limited sense to become part of the Commission. I was able to observe all the open meetings of the Commission and several of the working groups. Some (very few) meetings were held in closed session from which NGO representatives were excluded. Further, NGO representatives have the benefit of briefings by Secretariat officials, access to all preparatory documentation and limited access to government representatives.

## 2. Secondary Sources

All the information in this thesis relating to the feminist (or women's) movement, and to the organisational structure of the United Nations as well as some of the information on NGOs is taken from published sources. A bibliography of these sources quoted in the text is provided.

INTRODUCTION - NOTES

1. U.N. Doc. E/AC.62/9.

CHAPTER ONE

HISTORICAL ANTECEDENTS OF THE COMMISSION

## CHAPTER ONE

### HISTORICAL ANTECEDENTS OF THE COMMISSION

The purpose of this chapter is to describe some of the historical and philosophical factors which have given rise to the existence of a "women's rights" movement in the twentieth century. The chapter is based on the assumption that there has not been one single women's movement<sup>1</sup> but, rather, a series of movements which have often been unrelated and often antithetical in nature. It would be wrong to suggest that the writings of eighteenth century liberals or radicals in England led to the nineteenth century suffrage movement, which led to the twentieth century women's liberation movement. More important were the social issues and changes of the day; for example, it was the importance of the revolutionary ideology in France and the tradition of non-conformist thought in England which led Mary Wollstonecroft to comment on the social and political conditions of England. However, it is important in discussing contemporary women's rights issues to acknowledge the weight of the past and to realise that much of what is discussed in a forum like the Commission on the Status of Women, and indeed, the very structure of the Commission itself, is partly determined by what has gone on in the past and that attempts to change women's status have a long and respectable history. The Commission on the Status of Women was established as part of, and still remains within the framework of, a women's rights movement.<sup>2</sup> The aim of this chapter is to place the Commission within that context in order to appreciate more fully some of the assumptions on which the Commission is based and some of the constraints under which it works. Of necessity the chapter is highly selective but it attempts to describe those points which are important to both the women's movement and more particularly to the Commission on the Status of Women.<sup>3</sup> The chapter draws the distinction between an 'intellectual' women's movement, in other words a movement dedicated to proving the essential equality of men and women, and an 'equal rights' movement, one dedicated to effecting social changes to improve the status of women by undertaking various forms of activity. In modern terms this distinction can be seen as the difference between 'consciousness raising', and securing changes in the law or founding such institutions as, in Britain, the

Equal Opportunities Commission. Clear differences of opinion have always existed about which tactic to adopt in order best to serve women's interests, and they still exist. The Commission on the Status of Women is an organisation set up within the tradition of the 'equal rights' movement and the impact of the women's liberation movement appears to have been negligible.<sup>4</sup>

### The Intellectual Movement

That part of the women's movement which can be described as 'intellectual' is composed of a variety of writers, journalists or thinkers whose aim was to provide a critique of the situation of women in society. They were essentially philosophers or propagandists rather than activists, individualist in their approach rather than organised as part of a mass movement, but they provided the framework within which other women could strive for changes in the law.

The intellectual movement was essentially revolutionary in contrast to the conservative suffrage movement and the equal rights movement. The intellectuals did not strive to achieve changes in the law but to achieve a whole new basis of society in which women would be able to lead full and equal lives and fulfill themselves as individuals. The early intellectuals had more in common with the twentieth century women's liberation philosophy than they ever had with the social feminism of the nineteenth century.

The most important of these early writers was Mary Wollstonecroft whose book The Vindication of the Rights of Women, written in 1791, was "the first sustained argument for female emancipation based on a cogent ethical system".<sup>5</sup> The Vindication of the Rights of Women was written at a time when questions of civil and political rights were part of the important issues of the day. The French Revolution of 1789 had set off debates in England and elsewhere on the perfectibility of man and on the extent of his civil and political liberties. Tom Paine's The Rights of Man was attacked by Edmund Burke in his Reflections on the French Revolution, and Mary Wollstonecroft joined in the debate in 1790 with her Vindication of the Rights of Man. From there it was logical for Wollstonecroft to extend her argument into the sphere of women's rights, for, in an age which was to usher in equality and brotherhood, why should women be left out?

In the Vindication of the Rights of Women Wollstonecroft was not demanding mere legislative changes. She was presenting a critique of

contemporary society and demanding a restructuring of the social order. She attacked organised religion for presenting a false image of women, and the army and aristocracy for wielding an autocratic power which enfeebled themselves and enslaved others. She argued for a system of government based not on private property, hereditary wealth and patronage but on merit and national ideals. These changes would help both the status and character of women. Wollstonecroft advocated better education, both physical and mental, for women. She stressed the importance of family duties and motherhood and recognised that the ability to earn their own living was very important in giving women a greater degree of independence. She called, in fact, for a revolution when she wrote that it was time

"to effect a revolution in female manners -  
time to restore them to their lost dignity and to make  
them, as a part of the human species, labour by  
reforming themselves to reform the world.

Although the initial reaction to the Vindication of the Rights of Women was shock, horror and dismay,<sup>7</sup> Mary Wollstonecroft did have some influence on the ideas of her time and even authors like Fanny Burney who rejected Wollstonecroft's views of the proper sphere of women were forced to reconsider their position.<sup>8</sup> However, with growing antagonism to the excesses of the French Revolution, Wollstonecroft and her ideas became discredited for a time.

In 1825 William Thompson published his Appeal of One Half of The Human Race, Women, Against the Pretensions of the Other Half, Men, To Retain Them in Political and Thence in Civil and Domestic Slavery. Whilst influenced by Wollstonecroft, Fourier and Saint-Simon,<sup>9</sup> Thompson concentrated his attack on the situation of women in the family. He proposed a communal type of society in which the domestic tasks would be shared by all the members of the community irrespective of their sex and in which the existing legal and social disabilities of women would be abolished. Thompson's work contains many of the ideas currently discussed in the women's movement, including the concept of the double standard of sexual morality, the theory of conditioning/socialization (which he describes as moulding) and the idea that the situation of women and that of slaves are analogous.

Thompson's work was studied by both Marx and Engels, and it was Engels who first submitted the situation of women to a materialist analysis. The Origin of the Family of 1884,<sup>10</sup> was based on studies by Lewis



Morgan, the anthropologist, who had suggested that at one time society had been organised as a matriarchy in which women had held a certain amount of power over men.<sup>11</sup> Engels defined the monogamous family unit as a reflection of the capitalist system. In marriage man holds woman as his property and controls her labour. The purpose of marriage is to produce children of undisputed paternity and to consolidate private wealth and property. Another writer influenced by Morgan was August Bebel, who, in his work Woman Under Socialism,<sup>12</sup> first published in 1883, argued that without the advent of a socialist society women would always remain in subjection. Like Wollstonecroft he argued for a radical change in society rather than mere legislative changes in the existing social order :

"The mass of the female sex suffers in two respects: on the one side woman suffers from economic and social dependence on man. True enough this dependence may be alleviated by formally placing her upon an equality before the law, and in point of rights, but the dependence is not removed. On the other side, woman suffers from the economic dependence that women in general and working women in particular, finds herself in, along with the working man .... The goal, accordingly, is not merely the realization of the equal rights of women with men within present society, as is aimed at by the bourgeois woman emancipationists. It lies beyond - the removal of all impediments that make man dependent on man; and consequently one sex upon the other." <sup>13</sup>

The case of nineteenth century liberalism in favour of women's rights was put by John Stuart Mill in The Subjection of Women<sup>14</sup>. In this work Mill decried the existing situation of women in which economic subjection was the rule and in which women's talents were either unused or turned into frivolous or meaningless tasks without regard to the woman as a person. Mill suggested that female influence in society, if translated into real power, would lead to a happier society as the evil influence of male domination would be removed and all would enjoy greater freedom of action.

In the United States the years 1830-1860 were particularly fruitful in the development of ideas relating to women's role in society. It was during the 1830's that the woman question "became an almost obsessive cultural concern".<sup>15</sup> Susan Conrad correlates the rise of an intellectual women's movement with the increasing importance of "Jacksonian ideology" i.e. egalitarianism, but also with the wave of Romantic thought which influenced the ideas of the time. Romanticism led women to examine their individuality and sentiments, and laid stress on notions of



freedom and heroic struggle. Conrad suggests that :

"The Jacksonian Persuasion itself reflected the impact of romanticism upon American culture and the source of its appeal. The heroic impulse inherent in American thought and the emphasis upon individualism suggested a method of recapturing the basic values of the Founding Fathers, of revivifying the original spirit of the American Republic. This political expression of romanticism was mirrored in the thoughts, writings, and political strategies of women seeking to find their role in a rapidly growing, expanding American culture."<sup>16</sup>

She goes on to explain that:

"The emergence of a recognisable group of female intellectuals - not all of whom shared the feminist persuasion - was a natural outgrowth of the American experience during this period. America's intellectual women between 1830 and 1860 were striving intensely, and often self-consciously, to become representative American women."<sup>17</sup>

One of the most influential and notable of these American intellectuals was Margaret Fuller, whose influence on American thought was due to her position as writer and journalist. In 1839 she established a debating group for women in Boston, providing many of the topics for debate and inviting the members to examine the pattern of their own lives. In 1840 she became editor and writer of The Dial, a new review magazine, and it was in the pages of this journal that she first published her thoughts on the situation of women. In 1843 she wrote her article entitled "The Great Lawsuit: Man versus Men, and Woman versus Women", which she expanded the following year into her most famous work Women in the Nineteenth Century. It was in these works that Fuller expressed her belief in the freedom of women to find their own individuality. She wrote:

"What women need is not, as a woman, to act or to rule, but as a nature to grow, as an intellect to discern, as a soul to live freely, and unimpeded to unfold such powers as were given her when we left our common home."<sup>18</sup>

This theme of the development of the personality of women has been reiterated several times by writers, American<sup>19</sup> and European,<sup>20</sup> and in the twentieth century has become one of the central issues of the women's liberation movement.<sup>21</sup>

The significance of the intellectual women's movement for the Commission on the Status of Women, is, in a sense, a negative significance. The underlying assumptions of any women's organisation which is geared to obtaining reforms in the social situation of women through reforms in the law cannot take into account the kind of arguments put forward by

Wollstonecroft, Bebel and the others. An organisation like the Commission must address itself to specific areas where some, perhaps minor, changes can be effected. Changes in the law present the easiest focal point for action although formal channels of this kind might not, as Bebel notes, affect any real change in the actual life of women. However such organisations cannot take into account the very wide arguments which have been advanced in favour of a revolutionary change in society. The organisation must work in that society and does not stand outside it as a social critic. For this reason such movements as the "rebirth of feminism"<sup>22</sup> in many countries in the sixties and seventies will not fundamentally alter the work patterns and goals of the organisation. The Commission must still work on the assumption that in a given society it may affect limited, tangible reforms which might go some way to improving the lot of a particular disadvantaged group of persons. For this reason the Commission has not become the centre of attraction for the new generation of women's liberation groups but remains the traditional ally of the older non-governmental organisations.<sup>23</sup>

These other groups, the 'equal rights groups' have as good a claim to importance as the intellectuals. They have an equally respectable history. In the nineteenth century questions of organisation and reform through the law became the focal point of much of the women's movement. Conrad says :

"Members of America's first generation of intellectual women could see few connections between their experience and that of intellectual women in the late nineteenth century. Feminists, with their burgeoning organisational structures, seemed to have no time for intellectuals of either sex, young or old. The business of institutionalised feminism was apparently business. Tactical manoeuvres to get the franchise too often eclipsed intellectual strategies designed to persuade society of the intrinsic merit of women as individuals."<sup>24</sup>

### Equal Rights Feminism

The women's organisations which were formed during the nineteenth century were only one aspect of the massive growth of organisations and associations at this time. Feminism and the women's movement in both the United States and Europe grew up at a time when society was changing from a predominantly rural society to a more complex industrial society. The growth of towns, industry and large-scale

enterprises was paralleled in the growth of organised activities, trades unions, women's, youth and church organisations. In 1887 Ferdinand Tonnies, in his work Gemeinschaft und Gesellschaft<sup>25</sup>, described how changing conditions had affected the type of relationships between men. He identified two types of association, the Gemeinshaft type in which natural will predominates i.e. the ties of family, friendship or custom, and the Gesellschaft type which are associations formed among persons of different backgrounds but having a common aim, trades unions, business enterprises and so on. Tonnies saw in the nineteenth century a tendency away from old family ties and folk-ways towards 'rational' types of activity having a unified purpose. Thus there were founded organisations of every sort, including women's organisations.

This move towards collective action was also identified by contemporaries of Tonnies. Gustave Le Bon, describing what he called a "psychological crowd" or "throng" wrote :

"Le fait le plus frappant présenté par une foule psychologique est le suivant; quels que soient les individus qui le composent, quelques semblables que puisse être leur genre de vie, leurs occupations, leur caractère ou leur intelligence, le seul fait qu'ils sont transformés en foule, les dote d'une sorte d'âme collective. Cette âme les fait sentir, penser et agir d'une façon tout à fait différente de celle dont sentirait, penserait et agirait chacun d'eux isolément... Chez une foule, tout sentiment, tout acte est contagieux à ce point que l'individu sacrifie très facilement son intérêt personnel à l'intérêt collectif."26

Attacking socialist ideas, the League of Nations and parliamentary democracy Le Bon also wrote in 1924 :

"Institutions have no virtue, souls are not made by them ... The most dangerous and prevalent of Latin errors is to believe that societies can reconstruct themselves by law ... "27

Such writers decried the changes which had occurred during the nineteenth century and the early years of the twentieth.<sup>28</sup> Essentially conservative, they disliked the movements which they could see growing up around them. However, it is in this context that the women's organisations must be placed.

The women had a strong belief in the utility of organising. They formed associations in imitation of and as part of the nineteenth century move

towards organisation. They believed that the law and legal institutions could be used to further their rights, or, at least, to redress the balance in the law which was weighted so heavily in favour of their husbands. Their approach was to campaign for specific changes, the right to hold property after marriage, the right to education, the right to vote and so on. Such a pragmatic approach would not appeal to Le Bon and certainly not to Mary Wollstonecroft who had posed the question :

"What use is it to legislate a change of manners without challenging the underlying assumptions on which the social order rests? "29

The pragmatic approach endured nonetheless and its enduring quality may well result from its success. Iglitzin and Ross suggest :

"Where feminist and egalitarian pressures have originated with women organised into movements or parties, the ensuing reforms and policy changes appear to be more enduring. "30

By setting themselves specific limited tasks the equal rights organisations could concentrate their energies on achieving that reform. Success is perceived as obtaining a reform of legislation and little thought is given to the effect, if any, that the reform will have on the actual situation of women in society. To obtain the vote for women was seen as a success in itself : it did not matter that the women newly enfranchised might be so dependent on the views of their husbands that they were unable to exercise an independent choice.

In nineteenth century Europe and America, however, the pragmatic approach was, perhaps, the most logical one. The law and legal institutions had been used as a way of consolidating male domination, so much so that Erskine could write :

"The husband acquires by marriage a power over both the person and estate of the wife. Her person is in some sort sunk by the marriage; so that she cannot act by or for herself. "31

The women naturally saw that changes in this legal system must be made if they were not always to remain subservient to men.

Women first had to learn the value of collective action and they had their training in the various non-conformist, religious organisations which developed from the seventeenth century onwards. The Quakers, Shakers and other religious groups provided a place for women



lacking in the conservative established Christian religions. Women were allowed and encouraged to speak out at religious meetings and took an active part in the life of the community. These sects provided a basic training for women such as Lucretia Mott, Cady Stanton and others who graduated from participation in religious meetings, to involvement in the anti-slavery movement, to the foundation of a women's rights movement.

Abolitionism and temperance became in the early nineteenth century respectable causes to which respectable women could give their support. Women gained experience of public speaking, fund raising, organising and collective action. They also gained an awareness of their own potential and a slow realization of their own subordinate position, even within the anti-slavery and temperance movements. 1848 is the date usually given to the founding of the women's right movement, for it was in that year that the First Woman's Rights Convention was held in Seneca Falls, New York. Elizabeth Cady Stanton had called for such a Convention after she and other female abolitionists had been refused permission to speak at the Anti-Slavery Society meeting in London in 1840. Stanton was stung into action and the women's rights movement was born.<sup>32</sup>

However, before this time, many hundreds of women were taking part in activities unrelated to women's rights. It has been estimated that there were approximately one hundred female anti-slavery societies in the United States.<sup>33</sup> Women took part in prison reform activities, experimental communes, and took up the issues of educational and moral reforms. By 1848 women's associations were founded to visit prisons, administer the poor law, abolish prostitution and reform 'fallen' women, as well as to agitate for rights in women's own behalf. In the late years of the nineteenth century the Women's Christian Temperance Union was founded, the National Council of Women was established, as was the Young Women's Christian Association, the General Federation of Women's Clubs, the Daughters of the American Revolution and many others. Women in these organisations had a certain political awareness and therefore were able to launch campaigns in favour of women's rights. Originally these campaigns were many and varied, and aimed at all the iniquitous laws which reduced the position of women in society. There were campaigns against the property laws, in favour of reforms in the laws of divorce, against V.D. acts and so on, but eventually

these campaigns coalesced into the single campaign for the vote. The question of suffrage became the dominant theme in those countries with active women's rights movements, the United States, Great Britain, Norway, Australia and the Netherlands. The women leading these campaigns for the vote argued that if women had the right to vote they would be in a position of power and would be able to influence events in other spheres. Strong will, determination and the charisma of the leaders ensured that this philosophy was accepted.<sup>34</sup>

The women's rights organisations campaigned relentlessly in their own countries to obtain the desired reforms. Their tactics are, perhaps, too well known to warrant a discussion but they included lobbying of government delegates, wide-scale publicity through demonstrations and public meetings, destruction of property and so on. These tactics, or some of them, were carried on into the new international inter-governmental organisations founded in the twentieth century. At three of these organisations the women carried on the struggle to obtain recognition in international law for the validity of their claims. The women's organisations, led by the American women's groups, lobbied the newly-formed Pan American Union, the League of Nations and the International Labour Organisation and to some extent they achieved the recognition which they sought. Their main triumph was, however, in securing the acknowledgement in the Member States of these organisations that the complaints made by the women were justified in every one of the 'civilized' states which made up the organisations. Recognition of the international aspect of the problem has ensured that the question of women's rights has had a place in international law from the 1920's onwards.

#### The Pan American Union

The National Women's party of the United States<sup>35</sup> took the question of women's rights to the Pan American Union in 1923. They succeeded in obtaining a resolution which recommended that :

"The Executive Council of the Pan American Union should include in its programme of future conferences a study of the ways to abolish constitutional and legal deficiencies or inadequacies arising from sex discrimination, in order to obtain for the American woman the same civil and political rights enjoyed by men."<sup>36</sup>

The women were again present at the Sixth International American Conference in 1928 and demanded the adoption of a treaty relating to the rights of women. A treaty was not adopted but, on February 18 1928, the Conference unanimously approved a resolution which created the Inter-American Commission on Women:

"This resolution was of extraordinary importance; for the first time in history an official international organisation was established for the purpose of promoting women's rights."<sup>37</sup>

The resolution establishing the Commission gave it only limited competence to prepare juridicial data concerning the status of women for consideration at the next session of the International Conference. At this Conference (1933) the Commission presented two reports : the first on the civil and political status of women in the American countries, and the second on the question of nationality of women. The Commission also prepared recommendations for action most of which seem to have been ignored. In recognition of the value of the reports the Commission was requested to continue its work and to report to the 1938 session. At this session the Commission, which had been functioning as an ad hoc body, was designated a governmental organisation of a permanent nature and retains this status today.<sup>38</sup>

Since 1938 the Commission has held several conferences relating to the status of women. The aim of these Conferences is educational, to make women aware of their rights and to encourage them to take an active part in the life of the community. The Commission has also undertaken research in several aspects of the law relating to women, including questions of nationality, and the civil and political rights of women. The first question which the Commission tackled was the question of the nationality of women and their children. The Commission began its study in 1928 and proposed to the Seventh International Conference in 1933 that a Convention be adopted relating to this question. This recommendation was accepted by the Conference and the Convention on the Nationality of Women was opened for signature in December, 1933. The Convention contained only one substantive article, article I, which reads

"There will be no distinction based on sex as regards nationality in their (the Contracting Parties) legislation and practice."<sup>39</sup>

In 1938 the Commission recommended that the Ninth International Conference adopt a Declaration in favour of women's rights and the result was the adoption of the Declaration of Lima (1938) in which it was agreed

- " 1. To declare that women have the right:
  - a) To political treatment on the basis of equality with men;
  - b) To the enjoyment of equality as to civil status;
  - c) To full protection in and opportunity for work;
  - d) To the most ample protection as mothers;
2. To urge the Governments of the American Republics, which have not yet done so, to adopt, as soon as possible, the necessary legislation to carry out fully the principles contained in this Declaration, which shall be known as "The Declaration of Lima in Favour of Women's Rights". "40

Since the adoption of this Declaration the Commission has worked to define the rights of women in various fields and has also studied the situation of women in American culture and society. Emphasis has been on the economic and social problems of women and the need to integrate women into every aspect of the life of the community.

One aspect of the work of this Commission which is of particular importance to the history of the United Nations Commission was the adoption, at the Ninth International Conference of American States in 1945, of a resolution which recommended that the Latin American governments

"take into consideration the cooperation of women in the formation of their respective delegations to international conferences, including the forthcoming conference to be held at San Francisco. "41

This resolution seems to have been taken to heart and the Latin American delegates to the San Francisco Conference played a decisive role in ensuring the inclusion of a reference to women's rights in the United Nations Charter and later in the establishment of the Commission on the Status of Women. The importance of the role of the Latin American delegates was demonstrated by Cheryl Beth Larsen<sup>42</sup> who quotes Doctor Bertha Lutz (Brazil) as saying

"The first mention of the basic human rights of all human beings, regardless of race, creed or sex, was the amendment submitted by Brazil, Uruguay, Mexico and Santo Dominigo jointly at the request of the women of the delegations of these Republics. It was advocated also by the sponsoring powers, which thus facilitated the adoption of this principle of equality. "



Larsen also suggests that the delegates from the American Republics were largely responsible for the inclusion in the Charter of the United Nations of Article 8 which provides that

"The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principle and subsidiary organs."

Larsen also suggests that it was the delegate of Brazil who first proposed the establishment of the Commission on the Status of Women.

#### The League of Nations

It was two women's organisations, the International Council of Women and the League of Women Suffragists of the Allied Powers and the United States, which drew the attention of the Committee of the League of Nations to questions relating to the status of women.<sup>43</sup> Members of these two organisations requested an audience with the Committee; and President Wilson, as Chairman, agreed to receive the delegation. The women were heard at the fourteenth session of the Committee and presented a joint memorandum in which they demanded: nomination of women to posts in the League; abolition of the exploitation of women and children; women's suffrage; the creation of an International Bureau of Education; the creation of an International Health Organisation.<sup>44</sup>

Some of these demands were met.

The Covenant which established the League of Nations provided, in article 7(3) that

"All positions under or in connection with the League, including the Secretariat, shall be open equally to men and women."

Despite this provision, however, the League remained more or less a male preserve. Only eight countries sent women as delegates and only three women ever held positions as head of service or chief of section.<sup>45</sup>

The question of traffic in women and children became an important area of concern for the League. Article 23(c) bound Members of the League to entrust it with the general supervision of the execution of agreements with regard to the traffic in women and children, and the traffic in opium and dangerous drugs. Traffic in women and children had been an international concern for more than a quarter of a century. An international Congress had been held in 1899 to consider ways of combatting the traffic in women. The Congress had led to the formation

of an international non-governmental organisation, the International Bureau for the Suppression of Traffic in Women and Children. At the initiative of the Bureau the French Government convened conferences in 1904 and 1910 to discuss the matter. An agreement was reached in 1904 to appoint central authorities with the duty of collecting information and with watching ports. Such an authority was not in fact established. Following the 1910 Conference the Hague Convention on the Suppression of the White Slave Traffic was adopted whereby the Contracting Parties agreed to punish those found guilty of being involved in the trade of women, even though the offence was committed in a third country.<sup>46</sup>

An international conference was held under the auspices of the League in June-July 1921 which led to the adoption of the 1921 Convention on the Traffic in Women and Children.<sup>47</sup> The High Contracting Parties agreed to ratify the 1904 Agreement and the 1910 Convention and to take all measures to discover and prosecute persons involved in the trade in women and children. Such measures were to include more stringent immigration and emigration administrative procedures. The Convention also contained an extradition agreement. Permanent machinery was established to supervise the execution of the Contracting Parties' obligations. This machinery consisted of a Permanent Advisory Commission which provided the Second Committee of the Assembly of the League with information. The Commission was composed of experts and one of their tasks was to consider information provided by governments, by the International Labour Organisation and by various non-governmental organisations which had been designated as "assessors". The Commission's Report was presented annually both to the Council and Assembly of the League.

Related to the question of the traffic in women and children was the plight of the thousands of women and children who had been deported from Armenia, Syria and Persia by the Turks at the time of the Turkish occupation of these territories (1914-1918). Many of these women were still held in captivity in Turkey and Asia Minor, and the question of how to reclaim them was raised in the Assembly by the Danish representative. A proposal for a Commission of Enquiry was rejected as it was felt unlikely that any such Commission would be able to collect any useful information. It was agreed instead that the League would

finance organisations already working in these regions, coordinated by a Mixed Board composed of representatives of each of the interested countries. During the years 1921-26 over 100,000 women were reclaimed. The second aspect of the work of the League which affected the status of women arose during the discussions of topics suitable for codification by the Committee of Experts of the Progressive Codification of International Law. This Committee was appointed in December 1924, and among the questions chosen as suitable for study was that of nationality. In 1927 it was agreed in both the Council and the Assembly that the question of nationality was suitable for discussion in an international conference. The First International Codification Conference met at the Hague in 1930 and one of the results of this Conference was the Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws.<sup>48</sup> The question of nationality had been for some time the subject of propaganda by several women's organisations who urged that marriage should not affect nationality, or that the effect of marriage on nationality should be the same for both sexes.<sup>49</sup> As the law stood at that time marriage to an alien could have resulted in the wife losing her nationality. In cases where she did not acquire that of her husband she would be left stateless. The 1930 Convention did not go as far as the women wanted but it did at least eliminate the possibility of a woman becoming stateless on marriage to an alien. The aim of the Convention was not, in fact, to eliminate discrimination but to lessen the effects of already existing discriminatory practices. The entire question of the status of women in all its aspects was not considered by the League until its sixteenth session in 1935.<sup>50</sup> During the Assembly ten Latin American countries plus the Liaison Committee of Women's International Organisations requested that the subject of women's status be placed on the Assembly's agenda. The Assembly requested information from Member States and from women's organisations relating to the status of women, and the information received pointed to wide variations in the status of women from country to country. The Assembly decided to study the question further and requested "qualified scientific institutes" to carry out a survey on the status of women.<sup>51</sup> Only one part of this survey was finished, that relating to private law, when the work was interrupted by the outbreak of war.

### The International Labour Organisation

The International Labour Organisation, founded at the same time as the League, formed a third target for the women's organisations.<sup>52</sup> A Labour Commission was established in January, 1919, to consider proposals for provisions to be inserted into the Treaty of Versailles. The Commission, under the chairmanship of Samuel Gompers of the United States, held a series of thirty five sessions from February 1 to March 24, 1919. The Commission formulated the International Labour Convention and proposed a series of clauses for insertion in the Peace Treaty. The Labour Commission had before it several proposals from governments as well as the Manifesto of the International Trade Union Conference which had been held in Berne in February, 1919. The Berne Manifesto contained several proposals relating to the employment of women. Women were to be protected from the excesses of industrial life by limiting their working hours to a maximum of eight per day, and night shift work was to be prohibited. They were to be excluded from working in 'unhealthy trades', and special regulations were proposed which would give pregnant women maternity benefits and leave of absence before and after confinement. Finally, the Manifesto called for equal pay for equal work. Similar proposals were made by the governments of Germany, United States and Italy.

Proposals were also made by certain women's organisations, national and international.<sup>53</sup> Representatives of these organisations appeared in person before the Commission and presented their demands on a group by group basis and then as a joint statement. Their proposals ran slightly counter to those presented by the trades unions as they pointed out the undesirable effects of protective legislation which, they said:

"only serves most often, to limit their scope of work and to exclude them from certain industries while leaving them free nevertheless to engage in work which is not prohibited but which is prejudicial to their health." <sup>54</sup>

Their answer was to extend such protective legislation to all workers and prohibit night work (as a danger to family life) for all regardless of sex. They demanded that maternity benefit should be paid as a wage and not be equated with sickness benefit and that working mothers should have the opportunity for part-time employment. Other demands included; equal educational and vocational opportunities, a rationalization of seasonal employment, the determination by women of



those activities which may be detrimental to their health, a forty-four hour week for all, reemployment after redundancy, adequate health facilities, and so on. All these benefits were to be extended to all workers regardless of sex.

As a result of these pressures the principle of equal pay was inserted in article 427 of the Treaty of Versailles. The newly formed ILO, meanwhile, took responsibility for determining the extent of the rights of working women.

From the very first International Labour Conference, which was held in Washington in 1919, to the present the ILO has developed a series of recommendations and conventions relating to women workers. At first the ILO concentrated on developing legislation which gives women special status as workers by exempting them, for example, from night work,<sup>55</sup> or from work involving substances dangerous to their health or reproductive function.<sup>56</sup> Their special role as mothers is also protected.<sup>57</sup> However, changing economic conditions and new social ideas led the International Labour Conference to review the policy of the organisation in respect of legislation concerning women. New principles were enunciated in two resolutions of the Conference at its twenty-third and twenty-fifth sessions. At the twenty-third session, in 1937, The Conference stated the aims of the ILO as providing for women

"full political and civil rights and full opportunity for education ... the opportunity to work ... remuneration without discrimination as to sex... (the right to) be protected by legislative safeguards against physically harmful conditions and economic exploitation."<sup>58</sup>

The resolution also proclaimed the right of women to freedom of association. Two years later, in 1939, the Conference recognised that one of the tasks of the ILO was to raise "the position of women workers throughout the world."<sup>59</sup> These resolutions were the first in a series which have changed the emphasis of the Organisation away from the elaboration of protective legislation towards the elaboration of principles of non-discrimination.<sup>60</sup> The ILO continues to work in this area and also in the field of employment policy relating to women. Recently, the Organisation has addressed itself to the study of the relationship between measures to protect the employment of women and

the principles of equality of opportunity and treatment. To this end the ILO is currently examining the possibility of amending some of its earlier legislation.

The United Nations Commission on the Status of Women - Its Origins

By 1945, then, questions of women's rights were well established in international law and within international organisations both governmental and non-governmental. At the Dumbarton Oaks Conference it was the Latin American delegates who ensured the inclusion of the principle of non-discrimination based on sex in the Charter of the United Nations. It was the Brazilian delegate who was responsible for the proposal that a Commission on the Status of Women be established as part of the United Nations machinery.<sup>61</sup> No such Commission was established under the terms of the Charter. Rather, the Commission began its life as a Sub-commission on the Status of Women of the Commission on Human Rights. It was only in 1947 that a full Commission on the Status of Women was established.

In 1947 the Commission could be said to belong to the tradition of equal rights feminism which had grown up in the West since the nineteenth century. The aim of the Commission was to develop international legal standards to promote women's rights. These standards would then be accepted by all the States in the international community and thereby the status of women would be enhanced. The Commission, in the early days, approached its work in the same pragmatic way in which the women's organisations and then the Inter-American Commission and the League had approached theirs. Targets were drawn up and conventions planned on the assumption that changes in the law would bring about changes in the status of women. There was nothing particularly new or revolutionary about this Commission and, indeed, it has been suggested that the Commission was set up as much to keep the women's organisations quiet as to enhance the status of women.<sup>62</sup>

However it is not true to say that the Commission is still today part of the same western tradition as it was in the 1940's. Changes have occurred in the approach of the Commission to questions relating to the status of women. One answer may be that the women's liberation movement of the 1960's and 70's affected the way in which the Commission views the status of women. However, this is not the case. Members of the Commission are representatives of governments and act not as feminists but as delegates of their respective countries. It is undoubtedly true to say that the women's liberation movement has had

an impact on the policies of some of these governments but these will mostly be governments in western Europe and the United States. A more realistic approach to the changes which have occurred in the Commission is to examine the composition of the Commission and to see if the changes in membership have affected its work patterns. The most important single factor to note when discussing changes in emphasis in the Commission is that the developing and newly independent countries are now involved in the work of the Commission. It is the political factors which these countries have brought into play in all the organs of the United Nations which have led to a change in outlook in those organisations which were previously dominated by western attitudes. The realization that<sup>63</sup>

"In the past the United Nations Commission on the Status of Women has not dealt with the whole of society. Consequently, we have really been talking to ourselves .....

is not due to the women's liberation movement but is due to the influence of the new Member States of the United Nations.

From the 1960's onwards the Commission has been developing its own approach to women's rights which is divorced from the traditions of the west and also from its own approach in its early years. The Commission has begun (due to influences which are discussed later in this thesis) to tie the concept of women's rights to the concept of development. This strategy has been described in the following way by Helvi Sipila:<sup>64</sup>

"by integrating women into their development strategy, governments will gain a better awareness of the resources they represent and the handicaps which they suffer. This should result in the improvement of women's position in politics, law, education and employment .....

This approach to women's rights is one developed only and entirely within the United Nations. It bears little resemblance to the rationale behind the activities of the equal rights movement discussed above and is, perhaps, the beginning of a truly international women's rights movement, albeit with a bias to the views of the Third World. For countries of the west it may also recall the views of the early intellectual women writers. Kramnick writes<sup>65</sup>

"If one isolated a western tradition in feminist reform, it is an approach which considers all aspects of women's condition, economic, psychological, cultural, as inter-related, with effective reform dependent on basic social changes in the distribution of political and economic power .... "

It may be therefore that by linking women's rights with development the Commission has thrown off the legacy of equal rights feminism which came to it by way of the women's organisations, the League and the Inter-American Commission. Whether the Commission will prove more effective in its aims by adopting such an approach can only be tested over a long-time span.



## CHAPTER ONE

### NOTES

1. The expression "women's movement" is taken from W. L. O'Neill, The Woman Movement; Feminism in the United States and England (1969).
2. Throughout the Chapter I have used the phrase "women's rights movement" in preference to the term "feminism" as the latter term has acquired a distinct meaning in the past few years. In any case the term feminism post dates the earlier writers of the women's movement considerably. Alice S. Rossi states: "In point of fact, the term 'feminism' was rarely used in the mid nineteenth century and referred simply to the 'qualities of females'. It was not until the 1890's that a concept of feminism emerged; it meant, as we mean it today, the 'opinions and principles of the advocates of the extended recognition of the achievements and claims of women'. Alice S. Rossi, The Feminist Papers (1974), p.xii. It may also be inaccurate to use the term "women's rights movement", but, as Caroline Dall wrote in 1854, "no other term can be found which covers the whole ground we must occupy in this discussion" (Quoted in Susan P. Conrad, Perish The Thought, (1976), p.180.
3. To understand how selective the chapter is, the reader is referred to one of the anthologies of writings on feminism such as Rossi, op.cit in note 2 above.
4. To the extent that in an interview with a representative of one of the women's organisations at the Commission on the Status of Women (1976) I was told to look elsewhere for feminism.
5. Mary Wollstonecroft, The Vindication of the Rights of Women (ed. Miriam Kramnick, 1975) p.17.
6. Ibid, p.132.
7. Ibid, pp. 63-73.
8. Fanny Burney gives her case for women's rights in her novel The Wanderer, or Female Difficulties (1814).
9. Sheila Rowbotham, Hidden From History (1974) p.39.
10. Frederick Engels, The Origin of the Family, Private Property and the State (1968).
11. The work of Morgan is at present largely discredited amongst anthropologists although Evelyn Reed in her study Woman's Evolution (1975) seeks to support many of his arguments. For an interesting anthropological explanation of the rise of male domination see Marvin Harris, Cannibals and Kings (1977).
12. August Bebel, Woman Under Socialism (1975).
13. Ibid, p.45.
14. J. S. Mill, The Subjection of Women (1929).
15. Conrad, op.cit in note 2 above, p.12.
16. Ibid, p.12.

17. Ibid, p.237 .
18. Quoted in Rossi, op.cit in note 2 above, p.164.
19. Discussed in Conrad, op.cit.
20. See, for example, Virginia Woolfe, A Room of One's Own (1945) Simone de Beauvoir, The Second Sex, (1974).
21. See, for example, Betty Friedan, The Feminine Mystique (1973); Kate Millett, Sexual Politics (1972).
22. Judith Hole and Ellen Levine, Rebirth of Feminism (1971).
23. See below, chapter on non-governmental organisations.
24. Op.cit, p.244 .
25. Ferdinand Tonnies, Gemeinschaft und Gesellschaft; Fundamental Concepts of Sociology (1940) p.xiii.
26. Psychologie des Foules (1912) p.14 .
27. The World Unbalanced (1924).
28. Michael A. Biddiss, The Age of the Masses (1977).
29. Wollstonecroft, op.cit.,p.69.
30. Iglitzin and Ross (eds.), Women in the World (1976) p.xviii.
31. John Erskine, An Institute of the Law of Scotland (Nicolson ed.1871) p.152. Se also Sir William Blackstone, Commentaries on the Law and Constitution of England, (Gifford ed. 1820) p.119; "By marriage the husband and wife are one person in the law; that is, the very being or legal existence of the women is suspended during the marriage, or at least is incorporated and consolidated into that of the husband". See also Albie Sachs and Joan Hoff Wilson, Sexism and the Law(1978).
32. For a discussion of the Convention and a copy of the Seneca Falls Declaration see Mariam Schneir,Feminism: The Essential Historical Writings (1972) p.76.
33. O'Neill, op.cit. in note 1 above, p.20
34. There are many histories of the suffrage movement. A particularly good description of the American experience is given in Eleanor Flexnor, Century of Struggle (1959) and Inez Haynes Irvin, Up Hill With Banners Flying; The Story of the Women's Party (1964) An eye-witness account of the British experience is given by E. Sylvia Pankhurst, The Suffrage Movement (1931). For a comparative study see Trevor Lloyd, Suffragettes International (1971).
35. The National Women's Party of the United States, led by Alice Paul, had succeeded in obtaining the vote for women in the previous decade. See Flexnor,op.cit, in note 34 above.

36. Information on the Inter-American Commission on Women is taken from the News Bulletin of that Commission, No.29, June, 1969. For a full text of the Resolution see James Brown Scott "The Inter-American Commission on Women", 1930 A.J.I.L. vol.24 p.757.
37. News Bulletin, op.cit., in note 36 above.
38. The most recent revision of the organic statute of the Commission took place in 1968 when the Commission was defined as an "Inter-American Specialized Organisation of a Permanent Nature", which is to enjoy "technical autonomy in the performance of its functions". The Commission is composed of an Assembly, an Executive Committee, National Committees of Cooperation and a Permanent Secretariat. Its functions are to study the situation of women in the American States, to establish cooperative relations with public and private organisations that are related to the objectives of the Commission, to promote the participation of women in public life and to report regularly to the Organisation of American States on the work undertaken by the Commission.
39. For text see 1944 A.J.I.L. vol. 28 Supplement.
40. News Bulletin, op.cit. in note 36 above, p.9.
41. Ibid. p.11.
42. Cheryl Beth Larsen, The United Nations Convention on the Political Rights of Women (1952) (University of London, Ph.D.Thesis 1975).
43. Details of the women's delegation appear in P. Rosello, Forerunners of the International Bureau for Education, (1944). See also International Council of Women, Women in a Changing World (1966).
44. The function of the Committee was to draft a Covenant for the League of Nations. Its fourteenth session, held on April 10, 1919, was its penultimate session.
45. United Nations Pamphlet, What the United Nations is Doing for Women (1948)
46. For text see L.N.T.S. 1912-1913 p.264.
47. For text see 1924 A.J.I.L. vol.18 Supplement.
48. For full text see 1930 A.J.I.L. vol.24 Supplement.
49. W. R. Flournay Jnr. "The New Married Women's Citizenship Law" 1923/4 Yale Law Journal vol.23 p.159; Cyril D. Hill "The Citizenship of Married Women", 1924 A.J.I.L. vol.18 p.720.
50. United Nations pamphlet, op.cit. in note 45 above.
51. These were; The International Institute for the Unification of Private Law, the Institute of Public Law, the International Office for the Unification of Penal Law.

52. For a history of the I.L.O. see E. J. Solano (ed.) Labour as an International Problem (1920). J. W. Follows, Antecedents of the International Labour Organisation (1951), J. T. Shorwell, Origins of the International Labour Organisation (1934), A. Alcock, History of the International Labour Organisation, 1971.
53. These were; International Council of Women, Conference of Allied Suffragists, Office des Intérêts Feminins, Syndicat Ouvriers Confédérés, Syndicats Professionels Independents, Ligne Francais du Droit des Femmes, Shotwell, op.cit., vol II p.273.
54. Ibid. p.290.
55. The Night Work (Women) Convention 1919 (No.4), The Night Work (Women) Convention (Revised) 1934 (No.41), The Night Work of Women (Agriculture) Recommendation 1921 (No.13).
56. The Lead Poisoning (Women and Children) Recommendation 1919 (No.4), the White Lead (Painting) Convention 1921 (No.13), The Underground Work (Women) Convention 1921 (No.45).
57. The Maternity Protection Convention 1919 (No.2), The Maternity Protection (Agriculture) Recommendation 1919 (No.3).
58. For text of the resolution see the International Labour Code (1960) p.21.
59. Ibid.
60. For a description of the work on the ILO in the area of women's rights see The International Labour Organisation; Summary of ILO Standards Relating to Women's Employment (1974). For a description of recent developments see E/CN.6/603 - Report of the ILO on its activities of special interest to women. See also the Declaration on Equality of Opportunity and Treatment for Women Workers, adopted June 25 1975 in E/CN.6/603. The Soviet Union is still in favour of retaining provisions which give special protection to women.
61. Larsen, op.cit. in note 42.
62. Ibid.
63. Helvi Sipilä, opening speech to the twenty-sixth session of the Commission, press release, unpublished.
64. Ibid.
65. In Wollstonecroft, A Vindication of the Rights of Women (Penguin edition, 1975) p.64.

C H A P T E R   T W O

PROCEDURAL RULES OF THE COMMISSION ON THE STATUS OF WOMEN



## CHAPTER TWO

### PROCEDURAL RULES OF THE COMMISSION ON THE STATUS OF WOMEN

The Commission on the Status of Women is a functional commission of the Economic and Social Council. It has its origins in article 68 of the United Nations Charter which provides that the Council

"shall set up commissions in economic and social fields and for the promotion of human rights, and such other commission as may be required for the performance of its functions."

A functional commission is defined as one which

"undertakes studies and makes recommendations to the Council with respect to the fields of activity defined in its terms of reference."<sup>1</sup>

The particular functions of the Commission on the Status of Women are defined by Resolution 48 (IV) of ECOSOC as being,

"to prepare recommendations and reports to the Economic and Social Council on promoting women's rights in political, economic, social and educational fields. The Commission shall also make recommendations to the Council on urgent problems requiring immediate attention in the field of women's rights with the object of implementing the principle that men and women shall have equal rights, and to develop proposals to give effect to such recommendations."

Initially the Commission on the Status of Women did not have the status of a full commission. Resolution 5(I) established a "nuclear" sub-commission whose task was to submit proposals, recommendations and reports concerning the status of women to the Commission on Human Rights. The sub-commission was empowered to determine its own terms of reference and to make recommendations on the definitive composition of the sub-commission through the Commission on Human Rights to the Council. The sub-commission recommended that the question of the status of women be dealt with by an autonomous commission, independent of the Commission on Human Rights. In her statement to ECOSOC the chairman of the sub-commission said,<sup>2</sup>

"the sub-commission (feels) that it should work under the best possible conditions and not be dependent on the pace of another commission."<sup>2</sup>

The report of the Commission on Human Rights incorporating that of the sub-commission was considered at the fifth meeting of the Economic and Social Council. The proposals of the sub-commission regarding its



status were accepted, and the Commission on the Status of Women was established.<sup>3</sup>

As a subsidiary organ of ECOSOC the Commission is subject to the rules of procedure of the functional commissions which were initially adopted by ECOSOC in Resolution 100(V) in August 1947. This Resolution has subsequently been amended several times and the present rules of procedure are consolidated in United Nations document E/4767 of 1970. Rule 1 of the Rules of Procedure provides that the functional commissions should hold one session annually unless the Council decides otherwise. The periodicity of the meetings of the Commission on the Status of Women has, in the past, been the source of some debate within the United Nations. The whole question should be seen in the light of the efforts made in the fifties and sixties to rationalize to some extent the work of the United Nations and to keep it within manageable limits, as well as to control and limit documentation.

The question of the periodicity of the meetings of the functional commissions first came under scrutiny in 1952 when the Secretary-General began his study of the work of the organisation and the work of the Secretariat in economic and social fields. At that time the General Assembly requested ECOSOC to continue to convene the Commission on the Status of Women for one session each year<sup>4</sup> and ECOSOC accepted the request.<sup>5</sup> The decision to hold annual meetings of the Commission was reviewed in 1969, when ECOSOC decided that, starting in 1971, the Commission should meet biennially.<sup>6</sup> The decision was challenged by the Commission at its twenty-third session<sup>7</sup> and by the General Assembly.<sup>8</sup> Both urged the Council to reconsider its decision. However in July 1970 the Council reaffirmed its position that the Commission on the Status of Women should meet biennially with effect from 1 January, 1971.<sup>9</sup>

The date of opening of each session of the Commission is fixed by the Economic and Social Council, taking into account any recommendation of the Commission and in consultation with the Secretary-General (Rule 2). ECOSOC publishes an annual time-table of meetings of all its functional and regional commissions and in addition the Secretary-General must notify members of the Commission of the time and place of the first meeting of each session. Such notification must be sent at least 42 days in advance (Rule 4).

Rule 3 of the Rules of Procedure provides that the functional commissions are to meet at "the seat of the United Nations", unless otherwise decided by the Council, taking into account any recommendations of the Commission and in consultation with the Secretary-General. This Rule was slightly modified by General Assembly Resolution 694(VII) which specified that

"sessions of a functional commission or of functional commissions (but preferably not more than one) of the ECOSOC, to be determined by the ECOSOC, would meet in Geneva without overlap for a total period not exceeding five weeks between mid-March and the end of April."

A resolution of the General Assembly cannot amend the Rules of Procedure of the Economic and Social Council, only the Council can do that. However the Resolution of the Assembly has meant that in practice the Commission on the Status of Women has held its sessions alternatively in Geneva and New York. It has also held three sessions outside the United Nations headquarters, the third session was held in Lebanon, the fourteenth in Argentina and the eighteenth in Iran. The Commission may meet away from the United Nations only when invited by a Member State and with the provision that the host State must defray any expenses exceeding the cost of holding the session on United Nations premises.

The meetings of the Commission are held in public (Rule 35) but the Commission may decide to held certain meetings in private (Rule 26). Where it does so the Commission is entitled but not obliged to issue a communiqué through the Secretary-General.

The provisional Agenda is drawn up by the Secretary-General, wherever possible in consultation with the Chairman of the Commission. It is communicated to the Members of the United Nations, to the President of the Security Council, to the President of the Trusteeship Council, to the specialized agencies, to the International Atomic Energy Agency and to the non-governmental organisations in Category I, II or on the Roster. The provisional agenda must be submitted, with the basic documents relating to each item, not less than forty-two days before the opening of the session. In exceptional cases the Secretary-General may transmit such documents not less than twenty-eight days before the opening of the session (Rule 5). Items for the provisional agenda may be proposed by;

1. The Commission at the previous session;

2. The General Assembly, the Economic and Social Council, the Security Council or the Trusteeship Council;

3. Members of the United Nations, the specialized agencies (subject to Rule 8 that the Secretary General shall carry out any necessary preliminary consultation concerning the item), the International Atomic Energy Agency. All such items accompanied by the basic documents must reach the Secretary General not less than forty-nine days before the date of the first meeting of the session. Items submitted outside the time limit must be accompanied by a statement of urgency and of the reasons for the late submission;

4. The Chairman or the Secretary-General;

5. Non-governmental organisations in Category I. Non-governmental organisations are subject to the further rule that they must inform the Secretary-General of a proposal to include an item in the agenda at least sixty-three days before the commencement of the session, and they must take into consideration any comments by the Secretariat before formally proposing an item for inclusion. The proposal and basic documentation must be submitted at least forty-nine days before the first meeting of the session and will be included in the agenda of the commission on adoption by a two-thirds majority of those present and voting (Rules 6, 7, 8).

The first item on the provisional agenda must be the adoption of the agenda except where the election of officers is required. During the session the Commission may revise the agenda but only items considered urgent may be added during the session (Rule 10).

The official languages of the Commission are English, French, Russian and Spanish and the working languages are English, French and Spanish (Rule 29). Speeches made in either the working languages or the official languages are translated into the working languages but any speech in a language other than the official languages will not be translated (Rules 30, 31, and 32). Summary records are drawn up in the working languages and, on request, will be provided in the official languages. All resolutions, recommendations and formal decisions are available in the official languages.

Summary records of the public meetings of the Commission are prepared and distributed in provisional form by the Secretariat. They are distributed to persons participating in the meetings and corrections may be submitted within three days of the receipt of the provisional

records. Disagreements over corrections are decided by the Chairman. The summary records are distributed to the members of the Commission, to the Members of the United Nations, to the specialized agencies, to the International Atomic Energy and to the non-governmental organisations concerned with the work of the Commission (Rule 37). Summary records may also be consulted by the public on publication. The records of private meetings of the Commission are available to the Members of the United Nations upon decision of the Commission and may be made public as the Commission may decide.

The Commission must present a report to the Economic and Social Council on the work of the session. Wherever action is recommended the Commission should, as far as possible, frame its recommendations as a draft resolution of the Council (Rules 38,39). The texts of all the reports and the decisions adopted by the Commission are distributed by the Secretariat to all the members of the Commission and any others participating in the session. These documents are circulated also, as soon as possible after the close of the session, to all the Members of the United Nations, to the specialized agencies, to the International Atomic Energy Agency and to the non-governmental organisations concerned (Rule 41).

Resolution 2(II) of the Economic and Social Council, which established the Commission, provided that it should be composed of one representative from each of fifteen Members of the United Nations selected by the Council. This number has subsequently been increased three times, and now there is a membership of thirty-two.<sup>10</sup>

The Secretary-General informs Member States by 15 February each year of forthcoming vacancies in the functional commissions and requests them to indicate by 15 April both their interest in serving on any particular commission, and the experience and fields of interest of individuals who might be appointed to serve if the State were elected to the Commission. The Council elects Members by secret ballot from those countries which have indicated their willingness to serve. It is, however, understood that Governments are not prevented, if elected, from nominating different individuals or sending alternates. The Secretary-General then consults with these States "with a view to securing a balanced representation in the fields covered by the Council".



Finally the Council confirms the representatives.<sup>11</sup>

The enlargement of the Council itself as well as its Commissions reflects the increased membership of the United Nations and has been described as

"a movement led by delegations from less developed countries as part of a general strategy to have United Nations bodies reflect more fully the geographic distribution of the total membership of the organisation."<sup>12</sup>

Members are elected to the Commission on the basis of an equitable geographical distribution according to the following pattern:

eight Members from the African States,

six Members from the Asian States,

six Members from the Latin American States,

eight Members from Western Europe and other States,

four Members from the Socialist states of Eastern Europe.

Despite this pattern certain States are invariably represented, reflecting the traditional power structure within the United Nations. These States are the United States, the Soviet Union, the United Kingdom, China (until 1966 and from 1970) and France.

The question of distribution of membership in the subsidiary organs of the Council was raised at the third session of the General Assembly. At this session the desirability of having all five Permanent Members of the Security Council represented on all the functional commissions was questioned. In reply it was argued that their economic and social importance in the world, and the experience and competence of their staff, made their presence especially useful in the work of the Council.<sup>13</sup> There is no formal requirement that the Permanent Members be represented, General Assembly Resolution 207 (III) merely recommending that

"the Economic and Social Council, in the election of Member States entitled to nominate members of functional commissions, and in elections and arrangements for elections of members of other subsidiary bodies (is empowered) to take all Members of the United Nations into consideration, with due regard to an equitable geographical distribution, to the special contribution each of the Members States may bring to the work of the Council, and to their ability to take effective action in response to their election."<sup>14</sup>

The ultimate arbiter of the credentials of an individual nominated to represent his or her State is ECOSOC which has the right to confirm

members of the Commission. A person who has been designated by a nominating Government may, pending confirmation by the Council, participate in the work of the Commission with the same rights as other members (Rule 12).

Members of the Commission serve for a period of four years<sup>15</sup> beginning from the 1 January following the election of their Governments.

Delegations are composed of representatives who may be accompanied by advisers (Rules 13 and 14). When a member of the Commission is unable to attend a whole session, and when his or her Government has designated an alternate in consultation with the Secretary-General, such an alternate has the same powers and status as a member of the Commission. Where a member is acting as a Chairman of the Commission, the alternate may, at the discretion of the Chairman, be permitted to take part in the meetings and to vote. In this case the Chairman loses his or her right to vote and may only take part in the proceedings in his or her capacity as Chairman.

Officers, normally one Chairman, three Vice-Chairmen and one Rapporteur, are elected at the beginning of the first meeting from the members of the Commission. The officers hold office until their successors are elected; and they are eligible for re-election. They may not, however, hold office after the expiration of the term of office for which his or her State was elected (Rules 15 and 16). If the Chairman is not present he or she must designate a Vice-Chairman to act in his or her place. If the Chairman ceases to be a member of the Commission, one of the Vice-Chairmen, in the English alphabetical order of the countries they represent, shall take his place. If no Vice-Chairman is available a new Chairman is elected. Where a Vice-Chairman acts as Chairman he or she has the same powers as the Chairman (Rules 17, 18 and 19). In practice the Commission appoints its officers on the basis of equitable geographical distribution and the Chair passes from one geographical area to another.

Rule 72 of the Rules of Procedure of the functional commissions states that a commission may

"invite any Member of the United Nations which is not represented on the commission to participate in its deliberations on any matter which the commission considers is of particular concern to any such Member. The representative of any Member thus invited shall not have the right to vote but may submit proposals which may be put to the vote by request of any member of the commission."



In practice such an invitation is granted to any State, Member of the United Nations, which expresses the desire to attend meetings. The right to participate without vote is also extended to the Palestine Liberation Organisation which occupies United Nations Observer Status C. The Palestine Liberation Organisation was invited to participate in the work of the United Nations by General Assembly Resolution 3237 (XXIX) which invites the PLO to observe unlimited "sessions and work". The PLO subsequently has maintained an office at United Nations headquarters and has adopted the title of "Permanent Observer" to describe the office.<sup>16</sup> ECOSOC, in accordance with article 70 of the United Nations Charter, which reads,

"The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it and for its representatives to participate in the deliberations of the specialized agencies."

provided in Article 78 of its Rules of Procedure that the specialized agencies shall be entitled to be represented at meetings of the Council and its committees and to participate in its deliberations with respect to items of concern to them.<sup>17</sup> A similar rule is contained in the Rules of Procedure of Functional Commissions (Rule 73). UNESCO and ILO are invariably represented at sessions of the Commission on the Status of Women. FAO and WHO have attended when matters of concern to these organisations have been discussed.

ECOSOC has provided for mutual representation at sessions of functional commissions where matters of common concern to both commissions were being discussed.<sup>18</sup> Representatives of the Commission on Human Rights and its Sub-Commission have been represented at meetings of the Commission on the Status of Women, as has the Social Commission. The Commission on the Status of Women designates one of its members to attend such meetings of these commissions as are relevant to its own work.<sup>19</sup>

The Commission was represented at nearly all the sessions of the Commission on Human Rights at which the International Covenants on Human Rights were discussed.

Representation of inter-governmental organisations is regulated by Resolution 48(IV) of the Economic and Social Council which requests

"the Secretary General to make arrangements for the presence of observers from regional inter-governmental organisations in the field of women's rights at sessions of the Commission on the Status of Women to act in an advisory capacity, and to arrange for the exchange of information between the Commission and these organisations on subjects relating to the Status of Women."

This Resolution was to provide specifically for the Inter-American Commission on Women which presents a report at each session of the United Nations Commission on the Status of Women concerning its own work as well as information on the status of women in Latin America. Since 1972 the newly-formed Arab Commission on Women has also been represented at the Commission.

The relationship between non-governmental organisations and ECOSOC was first defined in article 71 of the Charter of the United Nations which provides that

"the Economic and Social Council may make suitable arrangements for consultation with non-governmental organisations... with international organisations, and, where appropriate, with national organisations."

Those NGOs which enter into consultative relations with ECOSOC acquire the right to consultation from which certain benefits flow. The extent of these benefits is laid down in ECOSOC Resolution 1296<sup>20</sup> although the arrangements for consultation are currently under review.

Resolution 1296 identifies three categories of NGOs: Category I (Organisations in general consultative status), Category II (Organisations in specific consultative status), and finally organisations which are termed Roster organisations. Each of the three groups have their own rights within ECOSOC. All three types of organisations have the right to receive a copy of the provisional agenda for the ECOSOC meetings although only organisations in Category I may request that an item be placed on the agenda. Organisations in Categories I and II have the right to designate representatives to sit as Observers at public meetings of the Council and its subsidiary bodies. Roster organisations may attend only those meetings which are concerned with matters which are within their field of competence. Written statements may be presented to the functional commissions of the Council by organisations in Categories I and II. Such statements are limited to 2000 words in the case of Category I and 1500 words in the case of Category II. An organisation in Category I may also make an oral

statement to a session of the Council or of a functional commission.

Resolution 1296 also provides that

"where there exists a number of organisations with similar objectives, interests and basic views in a given field, they shall, for the purpose of consultation with the Council, form a joint committee or other body authorised to carry on such consultations for the groups as a whole,"

and further that,

"the basic resources of the international organisation shall be derived in the main part from contributions of the national affiliates or other components or individual members."

Some 89 organisations have been represented at the Commission under the terms of this and previous resolutions. These include women's organisations, religious organisations, and organisations which have an interest in some aspect of this work of the Commission e.g. labour organisations. The role of the NGOs is discussed more fully in Chapter 7 (below).

The Commission on the Status of Women was originally founded as a sub-commission of the Commission on Human Rights and was staffed by members of the Human Rights Division of the United Nations Secretariat, in the Section for the Status of Women. However with the changing emphasis within the Commission on the Status of Women away from the legal formulation of rights to questions of women's role in society and the development process it was decided that secretarial services should be provided by the Centre for Social Development and Humanitarian Affairs. Since 1973, therefore, the Commission has been serviced by the Branch for the Promotion of Equality Between Men and Women. The Branch consists of 11 members of staff<sup>21</sup> and services all the United Nations organs which deal with questions relating to women, including the General Assembly, ECOSOC, the Committee for Development Planning and so on. The Branch also prepares documentation for any international meetings where questions of women are to be discussed such as the Mexico Conference, seminars on the status of women and regional meetings. The Branch also prepared papers concerning women to the Habitat Conference, the World Conference for Population Year and the World Conference on Water.

Initially members of the Secretariat tended to come from the legal profession but again with the emphasis moving away from the definition

of legal rights for women and towards the study of women's role in society the Branch has changed composition and is now multi-disciplinary. There are social scientists, demographers, political scientists as well as lawyers among members of the Secretariat Staff. The changing composition of the Secretariat has tended to reinforce changing emphases in the Commission although it has not prevented the development of new international legal standards. The functions of the Secretariat in regard to the Commission on the Status of Women are two-fold. The Secretariat reports to the Commission when so requested either by the Commission itself or by another United Nations organ. The reports presented to the Commission are in the name of the Secretary General and not in the name of the person or branch presenting the report. Reports presented by the Secretariat provide a unique opportunity for pointing the way to Government delegates on questions where some technical knowledge is necessary.<sup>22</sup> The Secretariat is in this way enabled to influence policy whilst maintaining standards of impartiality and anonymity which are necessary for the proper functioning of an international civil service.

The Secretariat also provides services to the Commission on a day-to-day basis during sessions of the Commission. These services include the taking of minutes, the provision of secretarial services to delegates, the preparation of summary records, assistance to the presiding officers by furnishing advice on questions of procedure, the presentation of reports prepared to the Commission and so on. As well as these duties there are others of a more delicate nature such as assisting delegates to draft resolutions, providing advice and guidance to new members, and in general providing the type of expertise which may be lacking in Government delegations. This type of activity goes on behind the scenes and requires a certain diplomacy on the part of members of the Secretariat so as to avoid attacks on their integrity, or accusations of bias in favour of a particular State, or of adopting a certain position. Nonetheless such guidance is of great importance to ensure the smooth running of the Commission and to enable the members of the Commission to tackle the work-load before them. Meetings of the Commission are quorate when a majority of members are present (Rule 42). It is the function of the Chairman to open



and close meetings as well as to direct the debate, accord the right to speak and to put questions to the vote. The Chairman has the additional powers of ruling on points of order raised by members and of proposing adjournment or closure of debate and adjournment or suspension of a meeting (Rule 43). Any member of the Commission may raise a point of order and any member may appeal against the ruling of the Chairman on any such point of order. Such an appeal is put to the vote immediately and may be carried by a majority of members present and voting (Rule 44). During debate any member may move for an adjournment of debate whereupon one member may speak in favour and one member may speak against the motion. After these speeches the matter is immediately put to the vote (Rule 45). A time limit may be fixed on the length of any intervention and the Chairman is empowered to call a member to order if he or she exceeds the time allotted (Rule 46). The Chairman may draw up a list of members who have indicated their desire to speak in the debate. He or she is also empowered to close such a list but may permit a member to speak whose name does not appear on the list where the Chairman deems this desirable. When the list of speakers has been exhausted the debate is held to be closed (Rule 47).

The move for closure of debate may be proposed by any member whether or not any other member has signified his or her wish to speak. Two speakers may oppose the closure motion after which the proposal is immediately put to the vote (Rule 48). A motion of suspension of debate may be put at any time by any member. Such a motion is immediately put to the vote (Rule 49). A motion to suspend the meeting has precedence over motions to adjourn the meeting, to adjourn the debate on the item under discussion and for the closure of the debate on the item under discussion (Rule 50).

Draft resolutions, substantive amendments and motions must be introduced in writing and submitted to the Secretary-General. Their consideration may be deferred until the following meeting upon decision by the Commission (Rule 51). Any motion which challenges the competence of the Commission on a particular topic must be voted upon before a vote is taken on the proposal (Rule 52). A motion may be withdrawn by its proposer before voting has commenced on it, provided that it has not been amended. A similar motion may, however, be reintroduced by another member (Rule 53).

Decisions are taken by a majority of members present and voting. Each member has one vote. Present and voting means casting a negative or affirmative vote (Rules 54 and 55). Voting is taken by a show of hands except where a member request that a roll-call vote is taken in which case members vote in the English alphabetical order, beginning with the State whose name is drawn by lot by the Chairman. Elections are decided by secret ballot (Rules 56 and 62). Where the vote is taken by roll-call individual members votes are registered in the records, (Rule 57) but where the vote is taken by show of hands only the voting figures are registered. An explanation of vote may be given by a member before or after the vote takes place (Rule 58).

Parts of proposals may be voted on separately if a member so requests (Rule 59). Amendments to proposals are voted on first and where there are two or more amendments, the one furthest away from the original is voted on first. If an amendment is adopted, the amended proposal is adopted (Rule 60). A motion is considered an amendment if it adds to, deletes from or revises a proposal. If a vote is equally divided on a matter other than that of an election, the proposal is regarded as rejected (Rule 65).<sup>23</sup>

Special rules for voting in elections exist whereby in the case where no candidate obtains a clear majority further elections may be held between the two candidates having the largest number of votes. If in the second ballot the votes are equally divided the Chairman must draw lots. Where two or more elective posts are to be filled there may be up to three ballots in which candidates with the least number of votes are eliminated from the election. If no candidates are chosen after three restricted ballots of this kind there may be unrestricted ballots in which members of the Commission are free to vote for any member.

Finally, in this discussion of procedure, it should be noted that the Rules of Procedure provide for the possibility of setting up sub-commissions of any commission which (the sub-commissions) meet annually. The same Rules of Procedure apply to the sub-commissions as apply to the parent body (Rules 66, 67, 68, 69, 70 and 71).



## CHAPTER TWO

### NOTES

1. Repertory, vol III (1955) p.2. (General Assembly).
2. ESCOR second session, p.30.
3. ECOSOC resolution 2 (II), 1946.
4. G.A. resolution 532 A, 1952.
5. At this time ECOSOC decided to convene annually the Commission on Human Rights, the Commission on the Status of Women, the Commission on Narcotic Drugs and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. The Population Commission, the Social Commission and the Transport and Communications Commissions were to be convened every two years unless special circumstances required alternative arrangements. The same resolution discontinued the activities of the Fiscal Commission.
6. U.N. Doc. E/4735 p.18.
7. U.N. Doc. E/4831.
8. G.A. resolution 2587 (XXIV), 1960.
9. U. N. Doc. E/4904 The Commission on Human Rights and the Sub-Commission continue to meet annually.
10. The increases in membership were effected by the following resolutions: 414 (XIII) to 18; 845 (XXXI), to 21; 1147 (XLI) to 32.
11. ECOSOC resolution 557 (XVIII), 1954.
12. Walter R. Sharp, The United Nations Economic and Social Council (1969).
13. Op.cit. in note 1 above, vol III, p.309.
14. G. A. resolution 207 (III). The five Permanent Members of the S.C. are almost invariably elected to the other functional commissions, although the recent failure to re-elect France to the Commission on Human Rights might be an indication of future trends.
15. The term of office had previously been three years but was lengthened at the 172nd meeting of ECOSOC to coincide with the decision to hold biennial meetings (U.N. Doc. E/4904).
16. Russell A. Lay, United Nations Observer Status: An Accumulation of Contemporary Developments (1976).
17. Op.cit. in note 1 above, vol. III, p.543.
18. Ibid.
19. The Commission on the Status of Women requested at its first session that ECOSOC allow a representative of the Commission to attend all the sessions of these other commissions as it would be impossible to know in advance when questions concerning the status of women would be discussed. ECOSOC rejected this suggestion.

20. ECOSOC resolution 1296 (XLIV), 1968.
21. As of July, 1977. In addition to these eleven there may be temporary staff for specific purposes. For example, several additional staff were appointed to prepare for the World Conference in 1980.
22. Several members of the Commission testified to the writer as to the excellence of the reports presented to them. The significance of the reports is discussed in the chapter on decision making below.
23. These formal rules do not explain how decisions come to be made: they merely provide the formal framework for decisions. The decision making process is discussed below.

C H A P T E R   T H R E E

THE COMMISSION IN THE UNITED NATIONS SYSTEM

## CHAPTER THREE

### THE COMMISSION IN THE UNITED NATIONS SYSTEM

In a study which concentrates on the work of any particular organisation it is tempting to accord to that organisation more importance than it deserves. Although the Commission on the Status of Women can be viewed as an independent body for the purpose of study it should be noted that it is only a very small part of a much larger organisation, the United Nations. To examine the Commission in isolation would, therefore, give a false impression of both its powers and importance. The purpose of this chapter is to place the Commission in the United Nations system, to define its relationship with the Economic and Social Council and the General Assembly, and to show the network of relationships into which the Commission has become drawn. The decline in importance of ECOSOC faced with the increased power of the General Assembly<sup>1</sup> has had repercussions on the subsidiary organs of ECOSOC. For the Commission on the Status of Women it has meant a redefinition of women's rights in terms of the development process and has brought the question of the status of women into a far wider forum for debate. These changes have not necessarily increased the powers of the Commission: in several respects its powers of initiative have declined. What has happened is that the areas of interest covered by the Commission have been swallowed up in a plethora of programmes, conferences and international debates whilst any true action has been avoided. The Commission on the Status of Women is a functional commission of ECOSOC and the special functions of the Commission are defined by resolution of ECOSOC as being:

"to prepare recommendations and reports to the Economic and Social Council on promoting women's rights in political, economic, civil, social and educational fields. The Commission shall also make recommendations to the Council on urgent problems requiring immediate attention in the field of women's rights with the object of implementing the principle that men and women shall have equal rights, and to develop proposals to give effect to such recommendations."<sup>2</sup>

Although the powers granted to the Commission by this resolution appear to be very wide, the Commission is unable to undertake any kind of activity without the permission of ECOSOC.<sup>3</sup> One of the functions



of ECOSOC is the coordination of the activities of the various bodies set up under its auspices both between each other and in relation to other parts of the United Nations system in areas where there are overlapping competences. ECOSOC, through its Administrative Committee on Coordination, (ACC), has sought to influence its subsidiary bodies into rationalizing their work programmes to prevent the proliferation of such programmes and to eliminate those activities which are irrelevant to the aims of a particular body.<sup>4</sup> One example of such rationalization is the regulation of the periodicity of the meetings of the functional commissions mentioned in the previous chapter.

Instructions as to the rationalization of its work come to the Commission by way of resolutions of ECOSOC addressed in general terms to all its subsidiary bodies. The first of these, in 1950,<sup>5</sup> stressed the desirability of establishing basic long-range programmes which were to be linked with a discussion of budgets for the overall work programmes of the commission concerned. The broad direction of policy was to come from ECOSOC, which could suggest fields of activity to be tackled. The following year ECOSOC recommended that its subsidiary bodies "should endeavour in undertaking periodic reviews of their programme to establish priorities and eliminate or defer less urgent projects".<sup>6</sup> It was also recommended that functional commissions divide their work into categories of high and low priority and then sub-divide the category of high priority into the further category of continuing or ad hoc projects. In this way ECOSOC hoped that the commissions could eliminate subjects which were not central to their purposes. In later resolutions ECOSOC asked for reports from its subsidiary bodies containing a description of the progress made in concentrating their efforts.<sup>7</sup>

A further development occurred in 1957,<sup>8</sup> when the ACC recommended not only that the functional commissions should limit their requests for reports to matters of major importance but also that they should leave the decision as to the timing of the reports to the Secretary-General.<sup>9</sup> At this time the ACC addressed specific recommendations to the Commission on the Status of Women which were later adopted by ECOSOC to the effect that it should continue 1) to space out the reports called for by its continuing projects and 2) to reduce the number of its ad hoc projects.

In 1968 ECOSOC was still urging on its functional commissions "the urgent need to rationalise" and again requested them "to classify the items on their work programmes into categories of priority".<sup>10</sup> The same resolution reminded the commissions that their terms of reference required that the Council should consider, before their implementation, all changes relating to work programmes.

ECOSOC has, therefore, exercised its constitutional powers of control and direction over the activities of the Commission. Such control has been largely over the working methods of the Commission rather than over the powers of initiation granted to the Commission in its terms of reference. More ambivalent has been the control exercised by the General Assembly over the functional commissions.

The constitutional basis for the relationship between the General Assembly and the Commission on the Status of Women is not clear as the Charter of the United Nations does not spell out the exact relationship between ECOSOC and the General Assembly and in some areas there is an overlapping of competencies. The General Assembly is empowered by Article 10 to,

"discuss any questions or any matters within the scope of the present Charter,"

and by Article 13 to,

"initiate studies and make recommendations for the purpose of;  
(b) promoting international cooperation in the economic, social, cultural, educational and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

The Economic and Social Council has similar powers. Article 62 provides that the Council may,

"make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all, (3) prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence."

Article 66 provides that the Council shall,

"perform such other functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly."

And finally, Article 66(3) empowers the Council to,



"perform other such functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly."

From a reading of these provisions it appears that the General Assembly has the authority to direct the activities of ECOSOC in the field of human rights and, over time, the General Assembly has in fact assumed a wide role in this field. Such an assumption of responsibility in the field of human rights has been noted by commentators on the functions of the General Assembly. For example, Reynolds noted,

"Essentially the General Assembly, with its quasi-parliamentary procedures, and its general competence over all the organs of the United Nations, with the exception of the Security Council and the World Court, assumed responsibility for all the promotional activity of the United Nations. It was primarily concerned with creating, through recommendations and technical assistance, the preconditions for peace ...

However while the General Assembly has maintained its position as the dominant organ of the United Nations, the nature of its activities has changed. It has not become less political, but the issues with which it is concerned have ceased to be closely linked to the conflicts between the major powers. It has become a small-power organ and represents small-power interest. The political implications of the Uniting for Peace Resolution have not been realized, and in the main the General Assembly has not been enlisted as a partisan by one or other of the major powers. As will be seen, the major questions with which it has been concerned, for example, colonial independence, economic development and human rights, involve conflicts between the small States and the major powers rather than between the latter. "11

Sharp<sup>12</sup> too remarks on the increasing interest displayed by the General Assembly in questions of human rights.

The rise in importance of the General Assembly over the Economic and Social Council has been attributed to the influx of the developing and newly independent countries into the United Nations in the sixties.

Sharp, quoting Walter Kotschnig, says;

"ECOSOC was amongst the first of their targets. With the arrival of two score members from Africa the Council came under heavy attack. It was called completely unrepresentative of the total United Nations membership and a tool of the "colonialists" and the vested interests of the rich. One African delegate proclaimed in public session that his chief purpose in serving on the Council was to destroy it. In 1964-5 the effectiveness of the Council was seriously impaired.

A majority of the Less Developed Countries interpreted Chapters IX and X of the Charter as vesting all responsibility for economic and social matters in the General Assembly. They denied that the Council had any real function of power, particularly to coordinate programs and activities.

With their absolute voting majorities, the Less Developed Countries proceeded to center their hopes for expanding United Nations attention to their development needs in the Second and Third Committees of the General Assembly. In doing so, they were in effect accentuating a trend towards greater Assembly assertiveness in economic and social development affairs, at the expense of ECOSOC, which was becoming noticeable as early as the mid 1950's. But the big difference a decade later was that the Assembly, under Less Developed Country influence, took the bit in its own teeth and authorised new permanent institutional arrangements that clearly impinge on the traditional role of the Council and that, in addition, are given the unique status of "autonomous organs" of the United Nations Assembly. As one perceptive observer has put the matter, the establishment, by Assembly vote, of UNCTAD and UNIDO amounted to "an undeclared revision of the Charter". 13

As a corollary to this assumption of competence by the General Assembly is the abdication of responsibility for developing questions of human rights within ECOSOC. Reynolds<sup>14</sup> suggests that the reluctance of ECOSOC to become involved in the controversies relating to the substantive provisions of the Human Rights Covenants necessitated the General Assembly's assumption of a policy-making role. Indeed a brief summary of some of the decisions relating to the Covenants indicates the extent to which the Commission on Human Rights worked in collaboration with the General Assembly with the intervention of ECOSOC appearing as a mere formality;

"In July 1950 the ECOSOC, in considering in its broad aspects the draft first international covenant on human rights (E/1681, annex 1) drawn up by the sixth session of the Commission (1950), came to the conclusion that further progress could not be made unless certain basic policy decisions were taken by the General Assembly (Resolution 303 I (XI)). The General Assembly, at its fifth session in 1950, in Resolution 421 (V), requested the revision of the first eighteen articles of a civil and political nature drafted at the sixth session, with a view to including additional rights and with a view to defining the rights and limitations thereto with the greatest possible precision; the study of a Federal State article and preparation of recommendations aimed at securing the maximum extension of the covenants to

the constituent units of Federal States and at meeting the constitutional problems of such States ...

The General Assembly at its sixth session (1951-52), decided that two draft covenants on human rights should be prepared, one to contain civil and political rights and the other economic, social and cultural rights (Resolution 543 (VI)) .....<sup>15</sup>

These are just a few examples of the many recommendations addressed to ECOSOC's subsidiary bodies in the field of human rights. Where such recommendations occur the role of intermediary between a commission and the General Assembly becomes a mere formality. ECOSOC does not have the power to alter a recommendation from the General Assembly to one of its (i.e. ECOSOC's) subsidiary bodies.

In a further bid to strengthen its relationship with the human rights bodies the General Assembly has suggested that the role of ECOSOC as an intermediary between the commissions and the General Assembly should be eliminated. ECOSOC, by this suggestion, would still submit the reports of the Commission on Human Rights to the General Assembly but would not have the power to debate the report.<sup>16</sup> At present the report of the Commission on Human Rights (as is that of the Commission on the Status of Women) is debated in the Social Committee, a sessional committee of ECOSOC, before being debated along with the recommendations of the Social Committee, by the Council itself. By eliminating these two stages the General Assembly would have more immediate access to the findings and feelings of the Commission on Human Rights and the impetus of the report would not be lost in the refining process of the Social Committee and ECOSOC.<sup>17</sup>

The General Assembly has also increased its commitment to the development of women's rights. This commitment has been manifested in the number and type of recommendations addressed to the Commission on the Status of Women by the Assembly. This has led to two important developments. Firstly, the relationship between the Assembly and the Commission has been tightened; secondly, the Commission has been forced to redefine the meaning attached to "women's rights". The influence of the General Assembly has been to draw the issue of women's rights into the mainstream of activities of the United Nations.

As early as 1962 it became clear that the General Assembly wished to exert some control over the work of the Commission. In that year the Assembly called on the Commission and the Secretariat to carry out a study on a unified long-term programme for the advancement of women

and for United Nations assistance in this field.<sup>18</sup> This was in the hope of rationalising the work of the United Nations and was an attempt to introduce forward planning into the work of the organisation. As far as the Commission was concerned the study resulted "in the extension of the work of the Commission, especially in the social field".<sup>19</sup> Subsequently the Assembly has addressed several recommendations to the Commission on work to be undertaken including the elaboration of a Draft Declaration on the Elimination of Discrimination Against Women for adoption by the Assembly.

The most important of these General Assembly recommendations is Resolution 2626 (XXV) of 4 August, 1970, which relates to the International Development Strategy for the Second United Nations Development Decade. This resolution spells out the relationship between the problems of development and questions concerning the status of women. The Assembly states, in this resolution, that it is to be a policy aim that "full integration of women in the development effort should be encouraged." The adoption of this resolution has had an enormous influence on the work of the Commission. The most important effect has been to carry questions relating to women's rights into every part of the United Nations Organisations which deals with development. This has brought the Commission into a new network of relations. It has also made it virtually impossible for the Commission to work within the bounds of its own definition of its aims laid down in 1946. Furthermore, it has largely taken away from the Commission the responsibility for developing policies relating to women's rights and placed this responsibility in other United Nations bodies and in such ad hoc arrangements as the World Conference For the International Women's Year of 1975.

Resolution 2626 was not, of course, the first international instrument to link concepts of human rights and development. The promotion of human rights and the economic well-being of all peoples are mentioned in the United Nations Charter as a means of achieving world peace. Reynolds explains this point in the following way,

"In any case there was no explicit connection between economic and social equality and world peace in the provisions of the Covenant, or in the activities of the League.



It was the Charter of the United Nations which made this connection explicit, for while one of its major functions was the maintenance of international peace, it also had two further functions which were equally important. These were the removal of economic, social and cultural inequalities and the promotion of respect for human rights and fundamental freedoms. Chapter I of the Charter states: "With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations ... the United Nations shall promote higher standards of living, full employment, and conditions of economic and social progress and development". In this statement we have the full expression of the belief, introduced into international politics by President Wilson, that international harmony was founded on the material welfare of all peoples, and that wars were caused by international political, economic and social inequalities. This is almost a Marxist conception, and it is easy to see how it was possible for at least some minimal agreement to exist on such provisions among the heterogenous states which negotiated the Charter."<sup>20</sup>

In the practice of the United Nations, questions of development have become the all-absorbing topic for debate. According to the Jackson Report,<sup>21</sup> the "development function now far surpasses any other activity". Elmanjdra would take this point even further, arguing that the meaning of "development" in the context of the United Nations has been defined as being only those activities which result from the various development projects sponsored by the United Nations, "operational activities". He feels that the essential relationship between development and peace has been lost;

"Another significant trend within the United Nations system has been a gradual shift in emphasis from the objectives of 'maintenance of international peace', 'collective security', and 'integration' at the international level, to a new set of goals which can be summed up in the single magical word of 'development' and its reduction to a prescription of 'operational activities' has led to a false and artificial dichotomy between national economic development and integration, and the normative functions of the United Nations system which in fact subsumes development, in its all-encompassing sense, both as a means and consequence of peace and international integration."<sup>22</sup>

The implication of this statement for the Commission on the Status of Women are very great indeed. For not only must the Commission fulfil the objectives first laid down in 1946 but it has also become enmeshed in a series of programmes and operational activities which have tended



to cloud the issues before the Commission. Whether this is desirable or not depends very much on the point of view of the observer. To many Third World countries questions relating to human rights cannot be taken in isolation. To allow them the right to vote whilst they lack the necessities of life seems to Third World observers yet another example of Western perfidy. Their attitude is summed up in the famous aphorism of Robert McNamara, President of the International Bank for Reconstruction and Development, "Human Rights begin at breakfast". This has also been the attitude of many members of the United Nations Secretariat who have seen the Commission on the Status of Women being left out of the major debates within the United Nations system precisely because the Commission was discussing esoteric issues whilst the United Nations was becoming more involved with programmes of aid and issues of the world economy. The Secretariat has been in a unique position to influence the direction of policy in this way for, as was noted in the previous chapter, members of the Secretariat service all the organs of the United Nations where questions relating to women arise and they are therefore able to introduce into the debates in the Commission questions which have been raised elsewhere. They have also been in a position to influence the major organs of the United Nations like the General Assembly by the judicious timing and presentation of reports. That they have not been afraid of undertaking activities of this kind emerges quite clearly from conversations with persons working within the Secretariat.<sup>23</sup>

The result of these developments has been to inundate the Commission with new sources of information, to involve the Commission in new projects, and to create a new web of relationships with other United Nations bodies and the result has been to shift the power of initiation away from the Commission and towards various diverse organisations. As far as the new web of relationships is concerned it may be that the Commission will benefit from the experience of those bodies with which it must now come into contact. One of the results of Resolution 2626 was the creation of a new link between the Commission on the Status of Women and the Commission for Social Development. In June 1972 these two Commissions held an inter-regional meeting of experts on the integration of women in the development process. This meeting brought together representatives from UNICEF, UNDP, ECA, the Office for Technical Cooperation and Centre for Development Planning, Projections

and policies, FAO, WHO and UNESCO. The immediate result of the meeting was a series of recommendations relating to land reform, literacy programmes, vocational training and so on.<sup>24</sup> In the long term one of the results of the meeting was to establish a system of reappraisal of the work of these organisations known as "The Inter-Organisational Programme for Women."

The inter-organisational programme was further developed following the resolution of the World Conference of the International Women's Year which called for the "development and implementation, under the Administrative Committee on Coordination, of a joint interagency programme for the integration of women in development, involving the regional Commissions and all the organisations of the United Nations system."<sup>25</sup>

After this resolution an interagency meeting was held on an ad hoc basis in February, 1976. At this meeting it was decided to ask the Centre for Social Development and Humanitarian Affairs to prepare long-term and detailed objectives as a basis for planning the activities of all the agencies concerned. The Centre established a list of ten objectives<sup>26</sup> which formed the basis for a preparation of an inventory of all the activities of the agencies of the United Nations system.<sup>26</sup>

These objectives were revised in the light of information provided by the organisations and were translated into an "Inter-organisational Programme for the United Nations Decade for Women: Equality, Development and Peace."

The programme concentrated on five areas of action in which United Nations activity is to be concentrated. These are

1. National development planning and monitoring systems,
2. Participation in political life and decision-making,
3. Participation in economic life,
4. Education and training,
5. Maternal and child health, nutrition, health and social services.<sup>27</sup>

The Programme recommends that these objectives be updated as new developments occur and provides for a biennial reappraisal of all the activities with a view to improving coordination and cooperation between the agencies in question.

The interorganisational programme can be seen as both a triumph and a blow to the Commission on the Status of Women. It is a triumph in the sense that now the question of the status of women is to be considered as an integral part of all the activities of the United

Nations family. However, it is true to say that the programme is largely unrelated to the activities of the Commission itself. The programme takes most of its impetus from the World Conference of the International Women's Year and it was sponsored chiefly by the General Assembly. The Programme is unrelated to the Commission in that the Commission has no power to discuss or comment on it.<sup>28</sup> Responsibility for the programme lies with the ACC and the various agencies which are involved with it. The Commission is represented in the programme by the Secretariat which provides the input of information relating to the activities undertaken by the Commission. The actual effectiveness of the programme has as yet to be tested. At present all that can be stated with confidence that it has led to a greater awareness amongst various United Nations agencies that they must seriously consider questions relating to women when they undertake programmes relating to aid.

The Commission has been drawn into new relationships with certain other organisations in its role as a supervisory organisation. The linking of the Second United Nations Development Decade with the Decade for Women by the General Assembly<sup>29</sup> has led to developments in the system of review and appraisal of improvements in the status of women. Resolution 3490(XXX), which concerns the implementation of the World Plan of Action adopted by the World Conference for the International Women's Year states that a system-wide review should be undertaken

"as an input to the process of review and appraisal made under the International Development Strategy in the years of the biennial review and appraisal of the strategy."<sup>30</sup>

Responsibility for review and appraisal of the Strategy lies with those organs of the United Nations which have responsibility for it including the Commission on the Status of Women, the Committee for Development Planning,<sup>31</sup> the Committee on Review and Appraisal,<sup>32</sup> ECOSOC and the General Assembly. The responsibility of the Commission in assisting in the review of the Strategy had been affirmed in 1974 when it was pointed out that

"as progress with regard to improving the status of women has been slow in many instances, special efforts should be made to review and appraise progress in implementing the programme of concerted action in the context of the mid-term review made in the first half of the Second United Nations Decade to take place in 1975."<sup>33</sup>

The same resolution requested the Committee on Development Planning and the Committee on Review and Appraisal to utilize "the expertise available in the Secretariat in the field of women's integration in development", and called on governments to report on

"progress made to implement the objectives and targets contained in the programme of concerted international action to promote the advancement of women and their integration in development."

Following the elaboration of the World Plan of Action at the World Conference and its subsequent adoption by the General Assembly,<sup>34</sup> the Commission was requested by the General Assembly to consider at each session reports on measures undertaken to implement the World Plan of Action in accordance with the International Development Strategy and to report to ECOSOC through the Committee on Development Planning and the Committee on Review and Appraisal on its

"findings and conclusions on major trends and policies with regard to the status of women, particularly the integration of women in development."<sup>35</sup>

Further the General Assembly recommended that the reviews of the World Plan of Action should take into account the Programme of Action on the Establishment of a New International Economic Order and the decisions of the sixth and seventh Special Sessions of the General Assembly.<sup>36</sup>

The biennial review and appraisal system to be undertaken by the Commission is, therefore, part of a much wider, all-encompassing review of the activities of the United Nations system. It brings the Commission into new relationships with the other responsible organisations and it indirectly relates the Commission to all organisations which have responsibility for development questions. Such organisations, including the specialised agencies, the regional commissions, and the inter-governmental organisations concerned, must all provide the Commission with information on their activities<sup>37</sup> so that the Commission may evaluate recent trends in the status of women.

The efficiency of the review and appraisal system was called into question at the twenty-sixth session of the Commission when, faced with a maze of instructions as to its tasks, the Commission found itself unable to complete any one of them. With regard to the proposed review, the Members of the Commission seemed in some doubt as to what was expected of them. Lack of time at the session meant that the proposed review had to be deferred to the resumed session in December when there



was only a cursory debate on what could have been a very important expansion of the work of the Commission.

At the resumed session a resolution was introduced by a group of States which pointed out the difficulties of defining "major trends and policies" when governments did not provide sufficient information on their activities. The resolution went on to suggest certain apparent trends:-

- " (a) The recognition of, and commitment to, the principle of equality of men and women and the integration of women in development, both for reasons of social progress and for economic development,
- (b) The adoption, or plans for adoption of constitutional and/or legislative provisions ensuring the principle of non-discrimination on grounds of sex,
- (c) The establishment of provisions for equal access at every level of education and the measures necessary to prevent school dropouts,
- (d) The adoption of comprehensive measures for health education, health services, sanitation facilities, family education, family planning and other welfare services!" 38

The resolution goes on to list areas in which measures could be taken to improve the status of women. These include the enactment of legislation, the establishment of education and information programmes to inform women of their rights, the establishment of targets for the involvement of women in the decision-making process, the establishment of government machinery for accelerating the achievement of equal opportunities and so on. It is pointed out in the resolution that this is an inadequate appraisal but that, for the reasons mentioned above, the Commission was unable to undertake a proper review and it suggests that such a review be undertaken at the next session.

The resolution was to have been considered at the Committee for Development Planning in April 1977, and in the Committee of Review and Appraisal in May of that year. The report of the Commission on the Status of Women was presented to both these committees but was not discussed and no action was taken.

That the review done by the Commission was inadequate is not surprising and for many reasons. Not least of these is the very nature of the Commission comprised as it is by government delegates who are neither experts in women's rights nor in development planning. This Commission meets for short sessions every two years and the work-load is already too heavy. Such a Commission is not a suitable forum for a detailed



review of the activities of the United Nations in the field of development activities. Indeed it would be difficult to imagine what committee could fulfil the mandate as it was presented to the Commission. The actual system of review is nonsense. It is difficult to imagine how a committee is to detect long-term trends in the status of women world-wide without detailed instruction as to the type of cross-cultural research that is required. It is difficult to know how to measure such things as the "status of women" or to ensure that in development programmes adequate regard is had to the particular needs and problems of women. In all it is difficult to see exactly what the General Assembly is asking the Commission to do. The results of their "appraisal" at the twenty-sixth session did not justify consideration within the United Nations system itself as it turned out. The observer might well ask if the effort expended was worthwhile. It seems therefore that the system of review and appraisal may be impossible to put into operation. The proliferation of such programmes in the United Nations Development System was well documented in the Jackson Report<sup>39</sup> as is the inefficiency and waste of resources which such proliferation breeds. It is perhaps premature to condemn the system of review and appraisal but its beginnings are inauspicious. Before such a system is introduced the General Assembly must identify what it is seeking to discover from such a system and to establish the methodology whereby meaningful data may be collected and analysed.

Largely related to these new functions of the Commission as an extension of other organs within the United Nations is the influx of new sources of information into the Commission. With the increasing emphasis on women and development the Commission is faced with information concerning their activities from several organisations. Added to this the proliferation of programmes resulting from the World Conference and various regional seminars and conferences has forced the Commission to examine a wide range of new informational inputs.

The General Assembly designed 1975 as International Women's Year "to be devoted to integrated action for the promotion of equality between men and women, the integration of women in the total development effort and the strengthening of women's role in world problems".<sup>40</sup> In preparation for the World Conference of International Women's Year several regional meetings were held in the course of 1974.

"They included: (a) the International Forum on the Role of Women in Population and Development (February-March 1974); (b) the Regional Consultation for Asia and the Far East on Integration of Women in Development (May 1974); (c) the Regional Consultation for Africa on the Integration of Women in Development (June 1974); (d) the United Nations Interregional Seminar on National Machinery to Accelerate the Integration of women in Development and to Eliminate Discrimination on the Grounds of Sex (September 1974); and the Regional Consultation for Latin America on Integration of Women in Development (April-May 1975)."41

The World Conference retained the three issues set out in General Assembly Resolution 3010 - Equality, Development and Peace, and the instruments adopted at the Conference reflect these concerns. The World Plan of Action<sup>42</sup> lays out guidelines for national and international action to improve the status of women. On the global level these include the establishment of the interorganisational programme described above to implement the decisions of the conference, the elaboration of international standards relating to women's rights, the integration of women into policy-making processes in international and regional organisations, technical cooperation in the establishment of schemes to improve health, educational and social facilities for women, and, finally, the exchange of information and experience. The Plan stresses that the success of such activities depends on support for the twin concepts of development and the maintenance of peace.

The Commission was then faced with the task of processing this information and attempting to relate it to the past work of the Commission. Much of it is irrelevant to the work of the Commission to date in that the Commission has in the past largely confined its activities to the elaboration of international standards and has not embarked on large-scale programmes of action. It became clear at the twenty-sixth session of the Commission that events had overtaken the Commission (whose last meeting had been before the large-scale preparations for the World Conference had been begun - 1973). The members of the Commission were faced with extensive documents on which they were to make their decisions yet most of the members were unaware of events which had taken place elsewhere in the organisation. It was also unclear, as indeed it still is, what the Commission should do with the information relating to seminars and meetings which take place elsewhere away from the auspices of the Commission itself. It seems that all the Commission is empowered to do is to take note that these meetings have taken place

and to note the decisions which emanate from them. Again it does not seem to be in the power of the Commission to comment on or criticise the results of activity undertaken elsewhere.

The third important development which has taken place relates to the involvement of the Commission in new projects due to the direction of the General Assembly. As noted above the General Assembly has very often intervened in the work of the Commission of ECOSOC. It seems now that the General Assembly, through such instruments as the World Conference and through its own resolutions adopting programmes relating to the status of women has taken on the role of initiator of policy for the Commission. The Commission is therefore constrained - as much through lack of time as anything else - to follow the lead of the General Assembly. Whether this is a long-term development and one which will continue to dominate is again something which remains to be seen but if the current practice of the United Nations in relation to women's rights is continued then there is no reason to suppose that the Commission on the Status of Women will be able to reassert its powers of initiation. The World Conference and the Programme for the Decade will certainly continue to dominate international action on the status of women until well into the 1980's.

The twenty-sixth session of the Commission was faced with two important tasks; the elaboration of a Convention on the Elimination of Discrimination Against Women, and the Preparation for a Programme for the Decade for Women.<sup>43</sup> The elaboration of the Convention was a project undertaken by the Commission at its twenty-fifth session but remained incomplete. In resolution 3521 (XXX) the General Assembly requested the Commission to complete the draft for adoption by the General Assembly as soon as possible. This had become in fact part of the Programme for the Decade which was also to be prepared at this session. At this meeting the Commission was presented with a draft Programme drawn up by the Secretariat on the basis of mandates emanating from the World Conference for the International Women's Year and the General Assembly. The Commission was not therefore free to change the proposals and had a limited task only in commenting on the phasing of the Programme, publicity, and national action.<sup>44</sup> The Programme finally adopted does not differ substantially from that drawn up by the Secretariat,<sup>45</sup> although it is more detailed in certain respects.

These two agenda items took up the whole time of the Commission at this session and it was clear that the Commission was relating its actions to the General Assembly, by-passing ECOSOC and concentrating on the tasks demanded by the Assembly. The Commission seemed therefore to have abandoned the functions laid down in its terms of reference in deference to the Assembly. The attention of the Commission was drawn to this changed relationship by Madame Helvi Sipila, the Assistant Secretary-General in the first day's debate on the Programme for the Decade, and it was clear from the debates that the Commission was unsure of its new role.

Finally, it may be said that the involvement of the General Assembly in questions of women's rights has led to the introduction of wider political debates into the Commission than had previously existed. To say this is not to suggest that economic and social issues are not political and that questions relating to the status of women are not of great importance but merely that in recent years some questions have been introduced into the Commission which in earlier years would have been rejected on the grounds that they were outwith the remit of the Commission.

General Assembly involvement is not, of course, the only cause for such increasing politicisation. Expansion of membership in the 1960's in ECOSOC and its subsidiary organs has had far reaching effects on the work of these bodies. Third World participation has, at the very least, improved the receptiveness of the Commission to matters concerning development and world peace and has created a demand for consideration of problems which relate to the problems of women in the less developed countries as a priority.<sup>46</sup>

A few examples of the changes in attitude shown by the Commission to wider political questions will serve to illustrate the point that the Commission seems to be more "political" now than in the earliest years.<sup>47</sup> The first of these examples occurred during the third session when the representative of Syria proposed that a new item be added to the agenda: the situation of Palestinian refugees.<sup>48</sup> The Commission voted (10 for, 3 against, 1 abstention) in favour of this proposal and heard a statement by the representative of Syria, who described the plight of Palestinian women who had been displaced from their homes. The Commission expressed sympathy and concern but limited its action to expressing the desire that the Conciliation Commission would reach an early solution to the problem. In this case the Commission had, in



fact, involved itself in a debate which had much wider implications than it seems from the discussion but, by failing to take any action (there was not even a resolution) it had tacitly acknowledged that the question was outwith its terms of reference.

At the sixth session<sup>49</sup> the Women's International Democratic Federation proposed (and was supported by the representatives of Poland and the USSR) that an item dealing with the participation of women in the defence of peace should be added to the agenda. The proposal was roundly defeated by a vote of 2 for, 12 against on the grounds that "it went beyond the Commission's terms of reference".

In comparison with these two examples the debate at the twenty-second session concerning the activities of foreign economic and other interests on the living conditions of women in dependent territories shows how far the Commission has moved away from its strict interpretation of its terms of reference.<sup>50</sup> During the debate some members expressed doubts as to the relevance of the topic and stated that this was a matter for the Special Committee as the members of the Commission did not have access to information concerning the status of women in dependent territories, and that the topic related to women as citizens and not to women as such. Other representatives thought the topic to be very important for a fuller participation of women in economic and social development. In reply as to doubts on the competence of the Commission to discuss the matter, these representatives stated that the Commission was "unquestionably competent" and that any information which might be required could be obtained from the Secretary-General. The Commission did discuss the question and a resolution was adopted (17 for, 2 against, 9 abstentions), requesting the Special Committee to devote part of its report to a consideration of the special situation of women.

The 9 abstentions indicate that there is not full agreement within the Commission that it should involve itself in considering questions which do not relate to the problems of women specifically but are part of a wider political debate. However, there were signs at the twenty-sixth session that if the Commission were to become a forum for political and policy debates then members were prepared to defend their positions throughout.



There was a lively debate during the twenty-sixth session in the discussion of the Programme for the Decade. The discussion centred around the concept of the New International Economic Order, something which has been accepted by many States within the United Nations, but which is not, significantly, accepted by the United States, members of the EEC and certain other States. Disagreement arose as to whether the opening paragraphs of the proposed Programme should include an explicit reference to the General Assembly resolutions which elaborated the concept. On the one hand, the representative from Mexico argued in favour of such an explicit reference (and was supported by the delegates of Iran, Senegal, and certain other representatives of the developing countries). In opposition, Denmark and the USA argued against. The debate became bitter at times, showing the existence of the North/South divide more clearly than it had appeared at any other time during the session.<sup>51</sup>

A compromise was reached stating that

"These international documents, as adopted, and especially the World Plan of Action ..... "52

However, at the adoption of the report, the representative of Mexico challenged the inclusion of the words "as adopted" on the grounds that (a) it had not been adopted in this form and (b) if it had then she had not been clear as to what was being adopted. She could never accept such a formulation. At this point the debate became acrimonious with accusations from the Western countries that those delegations supporting Mexico were trying to change a decision adopted in the proper way. Reference was made to the summary records which supported the Danish contention that the text agreed by the Commission contained the formula "as adopted" and the representative of the USA threatened to have the tapes of the debates replayed. The supporters of Mexico accused the West and particularly the UK (the UK had chaired the meeting) of having so confused the issue that delegates had been unaware of what they were voting for.<sup>53</sup> As a compromise Denmark agreed with the suggestion of the Secretariat to have the words,

"The inclusion of this paragraph should not be interpreted as indicating a change in the positions taken by certain delegates when the documents and resolutions referred to in the paragraphs were adopted."

added by way of footnote to the text and this was also agreed by Mexico.<sup>54</sup>

These questions were also raised during the debate on the draft report on the session. In the report it was stated that,

"The Commission was of the opinion that the Decade for Women was extremely timely in that it coincided with the Second United Nations Development Decade and with the programme for the establishment of a new international economic order."<sup>55</sup>

The delegate of Mexico insisted that the underlined words be written in capital letters to show that the Commission was referring specifically to the new International Economic Order which had been debated by the General Assembly. The USA opposed this proposal, Iran supported Mexico, the UK agreed with the USA, Cuba and Senegal expressed support for the Mexican position and a timely amendment suggested by the rapporteur (Iran) closed the debate. The words would appear in the report with capital letters but the sentence would begin "Many members of the Commission .....".

It became clear during these debates that what was in issue was not any questions of women's rights. These principles were readily agreed on by all the representatives present. What was at issue was the debate between the developing and the developed countries as to the principles upon which the world economy should be based. By bringing this debate into the Commission on the Status of Women attention had been drawn to the disadvantaged position of Third World countries in world trade, and the unfinished debate on the International Economic Order was brought into yet another organ of the United Nations. Such a strategy is a useful one for the proponents of the concept because by using every available forum to publicize it it may attract attention and support. However from the point of view of women it is questionable strategy. If women are to wait for equality until a new international economic order is established then all the work to date will be wasted. It is also open to question if the Commission is competent to accept or reject the proposed new International Economic Order when the political organs of the United Nations have not resolved the problem.<sup>56</sup> However if the question of women's rights is to be brought into a wider debate then a certain degree of politicization of issues within the Commission itself would seem to be inevitable. It is likely that this will become a new trend within the Commission, especially if it plays any major part in the Review and Appraisal System for the Second Development Decade.

It is possible to draw several conclusions from this chapter;

1. There has been a diffusion of power concerning questions relating to the status of women within the United Nations System. The Commission on the Status of Women is the specialized organ within the system for considering questions relating to women's rights although other organs have competence in this field, such as the General Assembly and the specialized agencies. However, with the identification of the status of women with questions of development, other organs which were formerly inactive as regards women's rights have also become involved e.g. the regional commissions. This diffusion of interest has implications for the Commission on the Status of Women. On the one hand, it can mean a loss of status as questions of women's rights are taken over by all these organisations and as they develop their own activities e.g. the inter-organisational programme. On the other hand, it can be seen as enhancing the status of the Commission as organisations which previously showed little enthusiasm for questions relating to women turn to it for advice and support e.g. in the Programme for the Decade. In this way the Commission can be seen to have justified itself, and the increased activity may be seen as legitimating the Commission. This will perhaps ensure the survival of the Commission in the face of opposition from the Committee of Experts.
2. The increased interest in matters relating to the status of women has resulted in a proliferation of machinery and programmes. On top of the already existing projects for women (e.g. the long-range programme for the advancement of women, the implementation (with its corresponding reporting system) of the Declaration on the Elimination of Discrimination Against Women, the Convention on the Elimination of Discrimination Against Women with its complex monitoring system, and so on), there have been established a new series of programmes for the advancement of women such as the inter-organisational programme, the Programme for the Decade, the proposed International Institute for Training and Research, and the Review and Appraisal System. Such a proliferation has made any definition of the role of the Commission impossible. In its terms of reference the Commission is the initiator of policy, of studies, of recommendations for action by other United Nations bodies. Now its role has become unclear. At least three of its present functions relate to the assessment of programmes.

- (a) the Review and Appraisal System,
- (b) the assessment of reports relating to the Declaration,
- (c) the proposed role as monitor of the Convention on the Elimination of Discrimination Against Women, (under Article 21).

These three functions are technical functions which would be more suitable for either a commission of experts<sup>57</sup> or some other specialised body. It is obvious that for the next ten years or so, innovatory activity will come from the General Assembly - indeed activity for the Decade is broadly established by the World Plan of Action as amended by the solutions adopted at the 1980 Conference. The role of the Commission, therefore, becomes unclear and ought to be clarified either by ECOSOC or by the General Assembly. It may be more useful for the Commission to direct its attention to more specialist areas e.g. to the field of family law where there is so little international agreement and a large scope for activity for which no other international body (with the possible exception of the International Law Commission) is suitable. The Commission could safely leave the elaboration of vast programmes to the Secretariat and the General Assembly - these two bodies are capable of undertaking such activities - and return to its original terms of reference.

It should also be noted that the increase in numbers of programmes only adds to the difficulties of governments in fulfilling their obligations as to reporting procedures. Even a government which is willing and able to report to the United Nations when requested for information must find difficulties in determining what kind of information is requested for each programme. There is a distinct lack of clarity caused partly by the enormous amount of activity.

3. In view of the fact that the General Assembly is so obviously related to the Commission it might be useful for the Committee on Restructuring to investigate the possibility of defining this relationship (and perhaps amending the Charter) and setting down the powers and limits of power of the General Assembly over the functional commissions. This is linked to the second point above because until it has been determined what are the powers of the bodies which control the Commission it will be impossible to define its role.

4. Finally, any reforms relating to the Commission on the Status of Women must be carried out quickly. The twenty-sixth session showed quite clearly that the Commission lacked a defined role. Its members

were unclear as to the limits of its functions and as to the relationship with the rest of the system. If clarification is not given soon, the Commission might become embroiled ever deeper in this atmosphere of uncertainty, and the impetus to women's rights gained by the International Women's Year may be lost.



## CHAPTER THREE

### NOTES

1. This changing relationship is described in Walter R. Sharp, The United Nations Economic and Social Council (1969). Sharp emphasizes the increasing assumption of power by the General Assembly (ibid p.206) as the cause of the decline of ECOSOC. Mahdi Elmanjdra in his work The United Nations System: An Analysis (1973) sees this decline in terms of ECOSOC's failure to deal with the problems confronting it. The Group of Experts appointed to examine the restructuring of the U.N. emphasized the need to strengthen and revitalise ECOSOC if the UN is to maintain a role in international economic affairs. See U.N. Doc. E/AF 62/9 A New United Nations Structure for Global Economic Cooperation (1975).
2. ECOSOC resolution 48(iv), 1947.
3. ECOSOC resolution 1367 (XLV) of 1968 provides that commissions must "submit to the Council for prior approval all requests for new studies or other substantial changes in the work programme".
4. Some of the impetus for improvement in planning has come from the General Assembly whose responsibility for the budget of the Organisation has made it conscious of the need to prevent the proliferation of overlapping programmes. The move towards rationalisation on the part of the General Assembly has been described in the following terms: "a consensus has existed among Assembly delegates for some years that the Assembly must somehow find the means for streamlining its procedures in order to expedite the work of the organisation. The rapid growth in membership has added a degree of urgency in the 1960's as the Assembly becomes further mired in procedural quicksands of its own making". Planz and Riggs, Forging World Order (1967) p.82.
5. ECOSOC resolution 324 (XI), 1950.
6. ECOSOC resolution 402 B (XIII), 1951.
7. For example, ECOSOC resolution 497 (XVI), 1953.
8. ECOSOC resolution 664 (XXIV), 1957.
9. It was in this resolution that the ACC first introduced the idea of biennial meetings for the Commission on the Status of Women and the Commission on Human Rights.
10. ECOSOC resolution 1367 (XLV), 1968. The Commission has adopted this method and devotes part of each session to planning its work programmes.
11. Charles Reynolds, Theory and Explanation in International Politics (1973) p.281.
12. Sharp, op.cit. in note 1 above p.210.
13. Ibid.
14. Reynolds, op.cit. in note 11 above p.316.

15. Reports of the Commission on Human Rights tenth session. ESCOR eighteenth session p.4.
16. See U.N. Doc E/CN. 4/1189.
17. The question of how far the recommendations of the Commission on the Status of Women are amended by the Social Committee and subsequently by ECOSOC is a question which is too large to be entered on here. A reading of the reports of ECOSOC on the work of its 52nd and 53rd session, for example, indicates that the Commission's recommendations suffer only minor alterations in this process. See G. A.O.R., twenty seventh session, Supplement No.3, U.N.Doc A/8705. Presumably more contentious issues will suffer the greater alteration although ECOSOC may prefer, as was the case with the Covenants discussed above, to leave such decisions to the General Assembly.
18. General Assembly resolution 1977 (XVII), 1962.
19. U.N. Doc. E/4831.
20. Reynolds, op.cit., in note 11 above p.272.
21. A Study of the Capacity of the United Nations Development System (1969).
22. Elmanjdra, op.cit. in note 1 above p.16.
23. This information was obtained in a series of interviews with members of the United Nations' staff in July/August, 1977.
24. For a summary of these resolutions see United Nations Action in theField of Human Rights (1974).
25. U.N.Doc. E/CN6/594.
26. Ibid. p.9 for a list of the ten objectives. The purpose of preparing such an inventory was to establish (a) how far the activities of the various agencies overlapped (or even clashed) in order to improve collaboration and cooperation and (b) to see where the deficiencies of the various programmes lay and how far they ignored the specific problems of women. In an interview with a representative of FAO in September, 1976 it was stated that the main benefit of the exercise was that it pointed up the shortcoming of FAO in certain areas. In an NGO briefing in September, 1976, a representative of UNDP stated that until 1975 UNDP had very largely ignored the existence of women in their development programmes.
27. These proposals were discussed by ECOSOC in April, 1977.
28. Although the Commission did try to amend the Programme during the twenty-sixth session when representatives of the Secretariat were forced to remind members of the Commission that they were not entitled to discuss it. See, for example, the statement of Mrs. Bruce, "il semble qu'il y ait une certaine confusion quant aux objectifs principaux de Programme interinstitutions. Ces objectifs out été adoptés par les institutions spécialisées à la réunion tenue en septembre et ne devraient pas être modifiés par la Commission". U.N.Doc. E/CN 6/SR 641.

29. General Assembly resolution 3490 (XXX), 1975.
30. U.N. Doc. E/CN.6/599.
31. The Committee for Development Planning was established by ECOSOC resolution 1079 (XXIX), 1965, as a group of experts to provide "valuable expertise to the United Nations for use in the formulation of national development plans as well as in the preparation at the technical level of the action programme for the Second Development Decade."
32. The Committee on Review and Appraisal was established by ECOSOC resolution 1621 C (LI), 1971. The Committee consists of 54 members whose function is "to enable the Council to discharge the responsibilities entrusted to it by the General Assembly in accordance with the Council's function under the Charter of the United Nations, to assist the General Assembly in the over-all review and appraisal of the Second United Nations Development Decade".
33. ECOSOC resolution 1855 (LVI), 1974.
34. General Assembly resolution 3490 (XXX), 1975.
35. U.N.Doc. E/CN.6/598. The World Plan of Action does not envisage specific reporting procedures on its implementation, but it does recommend that "the Secretary General should be invited to make appropriate arrangements for the first biennial review of progress in 1978, in cooperation with Governments and taking into account the existing structure of resources of the United Nations system ... At the national level Governments are encouraged to undertake their own regular review and appraisal of progress made to achieve the goals and objectives of the Plan and to report on its implementation to the ECOSOC in conjunction, where necessary, with other existing reporting systems". Report of the World Conference of the International Womens Year (1976).
36. General Assembly resolution 3520 (XXX), 1975). The General Assembly recommended that the biennial review take into account the Programme for the Establishment of a New Economic Order.
37. All these organisations have a further duty to incorporate reports on activity undertaken in accordance with the World Plan of Action in their annual reports to ECOSOC.
38. U.N. Doc. E/CN.6/L.716/Add.3.
39. Op.cit. in note 21 above.
40. General Assembly resolution 3010 (XXVII), 1972. The idea of having a special year devoted to women had first been suggested by the Women's International Democratic Federation, a non-governmental organisation in Consultative Status I with ECOSOC. The WIDF lobbied a group of States (Egypt, Finland, France, Hungary, Philippines, Romania and Tunisia) to sponsor a resolution designating 1975 as International Women's Year and devoting the year to intensified

action to promote equality between men and women and to increase women's contribution to national and international development. The resolution was adopted unanimously by the Commission and considered by the Social Committee of ECOSOC where it was adopted by 35 votes to 0 with 4 abstentions. ECOSOC adopted the draft resolution adopted by the Social Committee and recommended that the General Assembly proclaim 1975 as International Womens Year and that the Secretary General should prepare a draft for the year. the General Assembly adopted the recommendation of the Council and in resolution 3010 designated 1975 as International Women's Year "to be devoted to integrated action for the promotion of equality between men and women, the integration of women into the total development effort and strengthening women's role in world peace."

41. Report of the World Conference, op.cit. in note 35.
42. Ibid. p.8.
43. In its resolution 3520 (XXX), 1975, entitled "World Conference of the International Women's Year" the General Assembly proclaimed the period 1976-85 as the United Nations Decade for Women. Equality, Development and Peace, to be devoted to the effective and sustained national, regional and international action to implement the World Plan of Action and related resolutions of the conference. The Programme for the Decade seeks to implement this resolution.
44. U.N. Doc. E/CN.6/L.681/Add.2. This document states "In introducing the report on the Programme for the Decade (E/CN.6/596), the Deputy Director, Centre for Social and Humanitarian Affairs, pointed out that the Programme was developed under headings related to the threefold theme of the Decade, and was based on mandates from the Conference and the General Assembly. Each action suggested had, as its authority, either a specific resolution, or the World Plan of Action endorsed by the General Assembly in its Resolution 5520 (XXX). She drew attention to section II of the report which summarises the action taken to date to implement the recommendations of the Conference and the General Assembly into six major areas, namely: the elaboration of a joint inter-agency programme for the integration of women into development; the establishment of an International Research and Training Institute for the Advancement of Women; the organisation, in cooperation with the regional commissions, of regional seminars, conferences and similar meetings, and the development of regional programmes; and the initiation of procedures for a system-wide review and appraisal of the World Plan of Action. Special attention was also given to the elaboration of a programme for the use of the resources of the Voluntary Fund for the United Nations Decade for Women. The programme outlined in that section was rather general in content and dealt mainly with international and regional action. The comments and suggestions of the Commission were invited therefore particularly as regards the phasing of the programme, publicity for the programme, and the national action that should be part of the programme.



45. For example, the Programme adopted by the Commission stresses the importance of public information activities by all the international organisations.
46. See, for example, the discussion relating to the inclusion of a provision on the problems of rural women in the 1980 Convention in Chapter 8 below.
47. The following examples are taken from the reports of the Commission. These reports only briefly summarize the debates and do not present a very vivid account of what actually happened.
48. U.N.Doc. E/1316.
49. U.N.Doc. E/1997.
50. U.N.Doc. E/4610.
51. U.N.Doc. E/CN.6/L.681/Add.5.
52. U.N.Doc. E/CN.6/L.681/Add.4.
53. There is a great deal of truth in these allegations. The debate was conducted in a very haphazard fashion moving from point to point very quickly. It is not suggested that the Chairman (U.K.) consciously duped the delegates but she was trying to press on the debate and get decisions made as quickly as possible. Nonetheless, the Western countries, having gained their advantage were reluctant to lose it.
54. U.N.Doc. E/CN.6/L.681/Add.5.
55. U.N.Doc. E/CN.6/L.681/Add.2.
56. The Mexican position was a form of blackmail. By insisting that the New International Economic Order be written into the Programme for the Decade she was forcing the hand of the Western States. They could not, as supporters of women's rights, reject the Programme and, therefore, Mexico, to whom the issues involved in the debates on the new order are of fundamental importance, could exploit this weakness. These comments do not imply any disapprobation of the Mexican delegate who merely used a bargaining tactic to her advantage. The compromise is more favourable to Mexico as the Western States have to opt out of that part of the Programme rather than having their own ideology written in as part of the Programme.
57. From the debates of the Commission at its resumed twenty sixth session on the supervisory machinery of the 1980 Convention it would seem that this view is shared by several delegates. U.N.Doc.E/CN.6/S.R. 661 to 669.



C H A P T E R   F O U R

THE WORK OF THE COMMISSION ON THE STATUS OF WOMEN

## CHAPTER FOUR

### THE WORK OF THE COMMISSION ON THE STATUS OF WOMEN

The Charter of the United Nations does not state or imply that there are specific rights which are to be accorded to women. Article 55(c) of the Charter merely states, that the United Nations shall promote

"universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion".

Sex is merely a "forbidden ground of discrimination".<sup>1</sup> The Charter does not advocate the development of any further international standards relating to women, nor does it imply that any special measures should be taken to single out women as a special category.

It was with the establishment of the Commission on the Status of Women that members of the United Nations committed themselves to take special action for a category of persons, and the type of action which was to be taken was to be determined by the Commission. The first part of this chapter examines the areas in which the Commission has played a part in developing international legal instruments. This chapter does not discuss the 1980 Convention on the Elimination of All Forms of Discrimination Against Women which is discussed in a later chapter. The second part of the Chapter discusses the work of the Commission in the preparation of programmes of action adopted by the United Nations.

#### 1. The Elaboration of International Standards

##### (a) Political Rights

In the field of political rights the Commission stated its aims as being

"Equal participation of women in government and the possibility of exercising all the rights of citizenship, irrespective of race, language or religion, and of assuming all the duties of a citizen, which comprise:

1. Universal adult suffrage,
2. Equal right to vote,
3. Equal right to be elected,
4. Equal right to hold public office."<sup>2</sup>

It was not surprising that the Commission, when defining its aims, made the achievement of equal political rights with men one of its primary tasks. The fight for women's suffrage had a long history by 1945, and the issues had been widely debated. There was a general belief that women should have the same political rights as men and this consensus

was made apparent in Resolution 56(I) of the General Assembly which recommended that Member States of the United Nations should grant the same political rights to women as were granted to men.<sup>3</sup> At its first session the Commission asked the Secretary General to report to it on measures which States had taken to comply with this Resolution and asked States to report annually to the Secretary General on any measures which they had taken. This information was debated at the third session of the Commission<sup>4</sup> when it was proposed that the Commission should recommend to ECOSOC that a Convention on the Political Rights of Women should be prepared. The Secretary General was asked to prepare a draft Convention along the lines of the Bogota Convention. This Convention had been adopted at the Ninth International Conference of American States in 1948 and had one substantive article,

"The right to vote and to be elected to national office shall not be denied or abridged by reason of sex."

The proposal that a Convention be prepared was adopted by 11 votes to 0 with 3 abstentions. The abstentions were the Soviet Union, Poland and the United Kingdom. The Soviet Union and Poland stated that as the granting of political rights to women was linked to the general status of women in the society concerned the adoption of a Convention could do little to further the aims of the Commission. The representative of the Soviet Union pointed to the failure of the Bogota Convention to improve the status of women in the Latin American countries. This approach to human rights is characteristic of the Soviet Union and other Eastern European socialist States, which stress the relationship between political rights and social and economic rights. This theoretical position has been defined in the following way

"Such rights and rules, however, cannot be treated simply in the abstract. In particular, the political sphere cannot be divorced from the social and economic. Rights must not be seen as freedoms from but as freedoms to, and as such they require constant attention to the economic and social setting in which men live and, in societies of private property and class conflict, total reorganisation." 6

Women's place in society will not be improved by allocating the vote to her. Such an improvement will only be effected by the reorganisation of the society itself. The Soviet approach has been, therefore to support the elaboration of international instruments which place

economic and social rights on an equal, if not higher, footing than the political and civil rights which are more readily espoused in the West.

The United Kingdom representative was opposed to the adoption of an international convention on the ground that she believed that the annual reports by the Secretary General which were presented to the General Assembly provided a more effective way of ensuring political rights for women.<sup>7</sup>

The Convention which was drafted by the Secretary General was discussed by the Commission at its fourth and fifth sessions (1950, 1951) and adopted by the General Assembly in 1952<sup>8</sup>. The Convention on the Political Rights of Women recognises in the preamble that

"everyone has the right to take part in the government of his country directly or indirectly through freely chosen representatives, and has the right to equal access to public service in his country ..."

Article I provides that women shall be entitled to vote in all elections on equal terms with men, without any discrimination. Article II provides that women shall be eligible for election to all publicly elected bodies, and Article III that women shall be entitled to hold public office and to exercise all public functions, established by national law. The Convention does not provide any procedure for enforcement either by way of individual complaint to an independent body or by a report procedure although a reporting procedure was later established in 1953.<sup>9</sup>

The Convention entered into force on 7th July 1954 in accordance with Article VI which stipulates that the Convention would enter into force on the ninetieth day following the date of deposit of the sixth instrument of ratification or accession. As of 1 January 1979 the Convention has attracted 85 ratifications and 6 signatures which have not yet been followed by ratification. These figures indicate a widespread recognition of the equal political rights of women in a wide variety of political systems.

#### (b) Civil Rights

In defining its aims in the area of civil rights the Sub-Commission on the Status of Women stated that its aim would be to ensure

"Full equality for women to exercise all civil rights, irrespective of nationality, race, language or religion, including among others:

1. Marriage. Freedom of Choice, dignity of the wife, monogamy, equal right to dissolution of marriage.

2. Guardianship. Equal right to guardianship of her own and other children.
3. Nationality. Right to retain her own nationality and for her children, the right to choose the nationality of the mother upon attaining their majority.
4. Legal. Legal capacity. Equal right to enter into contracts and to acquire, dispose and inherit property.
5. Domicile. A married women to have the same right to establish her domicile as a man or single women."

Clearly this is a very wide field and one in which there are many different practices existing throughout the world. Laws relating to marriage are, more than any other type of law, closely bound up with the social structure and the religious and cultural beliefs and assumptions of a society. For this reason it is very difficult to discern a unifying thread which could be used everywhere to improve the status of women in the family situation. The very concept of the family means different things in different societies. To some western feminists the family is seen to be one of the greatest sources of oppression, yet in an African context, where the family is often an extended network of relationships, it might provide the necessary support for women who wish to take an active role in society. Similarly, marriage is seen in different ways in religious or secular societies, and the rights and duties of spouses vary from one culture to another. However, "the family is the immediate environment of almost every women - for some of it is their total environment",<sup>10</sup> and, therefore, the field of family law is one area in which the Commission should be particularly active.

The Commission has worked to define some international standards in this field and two Conventions have been adopted, one relating to the question of nationality and the other relating to consent to marriage.

(i) The Nationality of Married Women

The question of nationality had been discussed both in the Pan American Union, which had adopted a Convention on the Nationality of Women in 1933, and in the League of Nations where nationality had been deemed a suitable topic for codification.<sup>11</sup> The Sub-Commission had declared its aim as being to achieve the right for women to retain her own nationality and the right for her children to choose the nationality of the mother. However, the Commission had to reconcile two conflicting arguments which were forwarded by States. The first was



the principle of the unity of the family, under which principle it was assumed that the fact that the spouses might have different nationalities would cause divided loyalties within families.<sup>12</sup>

It was long assumed that the most effective method of eliminating such potential conflicts was to subsume the nationality of the wife into that of the husband.<sup>13</sup> However, with the trend in favour of non-discriminatory legislation in various fields, a second principle, that of the freedom of the wife to choose her own nationality, had come to have equal importance in 1946.<sup>14</sup>

The question of nationality of married women was raised again at the third session of the Commission in 1949, when members of the Commission had before them a report on the studies undertaken by the League in this field as well as information from a questionnaire sent out to States by the Secretary General relating to the situation in domestic law in various countries. At this session the Commission recommended that a Convention be prepared "which would ensure women equality with men in the exercise of this right and especially prevent a woman from becoming stateless or otherwise suffering hardships arising out of these conflicts of law."<sup>15</sup>

At the fourth session the Commission elaborated two principles to be incorporated into the proposed Convention: (1) that there should be no distinction based on sex as regards nationality in the legislation and practice of the parties to the Convention; and (2) that neither marriage nor its dissolution should affect the nationality of either the husband or the wife, but that nothing in the proposed Convention should prevent the States Parties thereto from making provisions for simplified, voluntary naturalization of aliens married to their nationals.<sup>16</sup>

At this session the Commission requested ECOSOC to determine the procedure to be followed in the elaboration of the Convention. ECOSOC asked the International Law Commission to draft the Convention.<sup>17</sup>

The International Law Commission decided to include the problem in a broader study of nationality, including statelessness, and reported to the seventh session of the Commission in 1953 that it was improbable that it would be able to deal with the matter in the near future.<sup>18</sup>

In view of the failure of the International Law Commission to act the Commission decided to formulate the Convention itself. Draft

Conventions were drawn up at the seventh<sup>19</sup> and eighth sessions<sup>20</sup> of the Commission and submitted to the Member States of the United Nations for comment. At the ninth session a further resolution was adopted outlining the proposals made in the Commission concerning the Convention and circulated to ECOSOC and the General Assembly.<sup>21</sup> The General Assembly's Third Committee examined the preamble and the substantive articles of the Convention at the tenth session in 1956 but the Sixth Committee failed to examine the formal clauses and so the Convention was deferred for another year. The Convention was finally adopted by the General Assembly at its eleventh session in January 1957 as the Convention on the Nationality of Married Women.<sup>22</sup> It came into force on 11th August, 1958.

The Convention has three substantive articles which provide;

"Neither marriage, nor the dissolution of marriage, nor the change of nationality during the marriage by the husband shall affect the nationality of the wife," (Article I)

"Neither the voluntary acquisition of the nationality of another State nor the renunciation of nationality by one of a State's nationals shall affect the nationality of the wife." (Article II)

"The alien wife of a national of a State may, at her request, acquire the nationality of her husband through specially privileged naturalization procedures." (This does not affect those States which grant to the wife, at her request, the nationality of the husband as a matter of right.) (Article III).

The Convention does not contain the principle advocated by the Commission that there should be no distinction based on sex as regards nationality, and, furthermore, it fails to meet the principle that the nationality of the married woman should not depend on the nationality of another. Its purpose, as outlined in the preamble, is not to safeguard the rights of women but to

"eliminate conflicts of law arising out of provisions concerning the loss or acquisition of nationality by women as a result of marriage, of its dissolution or of the change of nationality by the husband during marriage."

Therefore the Convention does not provide that such a loss does not occur, but that it should not be automatic. The provision in Article III of special naturalization procedures is in itself discriminatory. Some States have the same naturalization process for the spouse of either husband or wife. The Convention on Nationality entered into force 11 August, 1958, in accordance with Article 6 which provides that the Convention would enter into force on the ninetieth day following the date of deposit of the sixth instrument of ratification or accession. As of 1 January, 1979, the Convention had attracted 52 ratifications and 8 signatures which have not yet been followed by ratification.

(ii) Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage.

The Commission on the Status of Women was just one of the international organs to play a part in the adoption of the Convention on the Minimum Age for Marriage. At its seventh session in 1953 the Commission decided to give attention to the situation of women in family relationships, particularly as to entrance into marriage, the law relating to betrothal and marriage requirements and procedures, the relationship between the spouses, and the property rights of women in marriage.<sup>23</sup> In 1954 the General Assembly adopted a resolution which "urged all States to take all appropriate measures with a view to abolishing such customs, ancient laws and practices which are inconsistent with the principles of the Charter and the Universal Declaration on Human Rights".<sup>24</sup> The resolution went on to define such measures in detail and included the need to ensure the freedom to choose a spouse, abolition of the bride-price, the elimination of child marriage and so on.

Two years later ECOSOC convened a Conference of Plenipotentiaries to discuss the elaboration of a Convention relating to the abolition of slavery and practices akin to slavery. This Conference recommended the initiation of a study on marriage from the point of view of the desirability of ensuring the free and full consent of both parties and of the establishment of a minimum age for marriage.<sup>25</sup> The recommendation of the Conference was taken up by the Commission at its eleventh session in 1957 when the Commission requested the Secretary General to prepare a report on the subject.<sup>26</sup> At its next session the Commission, having before it the report of the Secretary General on

consent to marriage and age of marriage, discussed the possibility of a convention relating to the principles of consent to marriage, minimum age for marriage, and registration of marriage. A resolution was adopted asking the Secretary General to circulate to Member States and NGOs a questionnaire designed to obtain information on these topics and also asking the Secretary General to prepare a draft Convention for consideration at its fourteenth session.<sup>27</sup> ECOSOC amended the resolution and asked the Secretary General to prepare a draft Recommendation rather than a Convention.<sup>28</sup> The Commission in 1959 asked ECOSOC to reconsider this decision in the view of the fact that the resolution of the General Assembly had not led States to amend their practices in this area.<sup>29</sup> ECOSOC accepted the advice of the Commission and at its next session asked the Secretary General to prepare both a Convention and a Recommendation for consideration by the Commission.<sup>30</sup> In the course of the debates at the fourteenth session in 1960 it was pointed out that there would be great difficulty in prescribing a minimum age for marriage as there was no agreement as to what this age should be. Some representatives argued that the Convention would place an obligation on the signatories to implement the principles contained in the Convention immediately by appropriate legislation. Others argued that the Convention would merely set standards to be achieved in the future.<sup>31</sup> Both the draft Convention and Recommendations were adopted by the Commission at its fourteenth session and the Commission recommended adoption by the General Assembly. Article I of the Draft Convention provided that "no marriage of any person under the age of fifteen shall be valid". However, when the drafts were submitted to Governments for comment, several stated that this provision conflicted with their legislation and so at the fifteenth session it was decided that the Convention should merely state the principle that there should be a minimum age of marriage and that the Recommendation should set this age at fifteen.<sup>32</sup> The General Assembly adopted the Convention in 1962<sup>33</sup> and it came into force 9 December, 1964. The Recommendation was adopted by the General Assembly in 1965.<sup>34</sup>

The three substantive articles of the Convention provide:

1. "The free and full consent of both parties to a marriage must be expressed by them, after due publicity.

2. To abolish prostitution.
3. Not only should no limitation be applied to women because of their sex, in regard to the enjoyment of full equality in the exercise of social rights and the assumption of labour duties, but consideration on grounds of health should be given equally to men and women, and special consideration to women on grounds of motherhood. With that aim in view the Commission shall try to obtain, among other benefits, State protection of the interests of the mother and child by providing holidays with pay for the mother before and after childbirth; by arranging leave of absence during working hours for nursing mothers, without deductions for such time from wages; by the establishment of special rooms for nursing the children; and by the organisation of a wide network of nursing homes and medical consultation centres, creches, and kindergartens, and other facilities."

As defined the aims of the Commission in this area are both confused and vague. Three areas for action are delimited; the provision of labour rights, the provision of maternity benefits and the abolition of prostitution. The elaboration of international standards relating to maternity and to labour rights is the responsibility of the International Labour Organisation. The role of the Commission has been, therefore, to provide criticism or support for the attempts of the ILO to develop such standards. More recently, in the Declaration on the Elimination of Discrimination Against Women and in the Convention on the Elimination of All Forms of Discrimination Against Women, both of which are discussed elsewhere in this thesis, the Commission has itself laid down principles relating to the rights of women at work and to their rights to maternity protection.

The International Labour Organisation has itself been relatively active in developing international conventions relating to women. Before the establishment of the Commission the ILO had already adopted three Conventions relating to the provision of maternity benefits, the regulation of hours of work for women and the abolition of underground work for women in the mining industry.<sup>36</sup> Since 1945 the ILO has adopted a further six conventions relating to night work for women, maternity protection, equality of treatment in social security, equal pay and the prevention of discrimination in employment.<sup>37</sup> The Commission has confined its own interest to the last two principles but, on the whole, it has not interfered with the work of the ILO.



Equal pay has long been part of the agenda of the Commission. As early as the second session in 1948 the Commission affirmed its support for the principle of equal pay and called on the ILO to state what action it had taken to provide equal pay for women.<sup>38</sup> At its third session the Commission recognised that the ILO was the organ competent to develop international conventions in this field but requested the ILO to consider certain points in its study of the question including;

- "(a) the adoption of the principle of rate-for-the-job rather than rate-based-on-sex;
- (b) granting to women the same technical training and guidance, access to jobs, and promotion procedures as to men ;
- (c) abolition of the legal or customary restrictions on the pay of women workers, and
- (d) provision of measures that lighten the tasks that arise from women's home responsibilities, as well as the tasks relating to maternity."<sup>39</sup>

At the fourth session the representative of the ILO explained that her organisation had been collecting data on this problem with a view to the elaboration of an international convention. The representative stated that special consideration had been accorded to the principle of rate-for-the-job which the Commission had suggested at its previous session.<sup>40</sup>

At the fifth session of the Commission in 1951 the ILO was criticised for its failure to reach agreement on a Convention. The representative of the Soviet Union suggested that reference by ECOSOC to the ILO of the principle of equal remuneration had led to the non-implementation of the principle. Other representatives supported the work of the ILO and a resolution was passed supporting the attempts made to give effect to the principle of equal pay.<sup>41</sup> By the sixth session in 1952 the ILO Convention on Equal Remuneration for Men and Women Workers for Work of Equal Value (1951) (No.100) had been adopted by the General Conference of the ILO and the Commission merely recommended that States implement the principles contained in the Convention.<sup>42</sup>

At the seventh session the Commission criticised the Convention on the grounds that it failed to make the provision of equal pay obligatory on ratifying States, that there was no time limit for the implementation of the principles, and that the Convention did not extend to non-self governing territories.

Following the entry into force of the Treaty in 1953 the agenda item "equal pay" was retained by the Commission and the representative of

the ILO reports to each session on the implementation of the principle.<sup>43</sup> Debates in the Commission have been very general and centre around the reasons why the Convention is not being fully implemented.

In 1958 the ILO adopted the Discrimination (Employment and Occupation) Convention (1958) (No.111).<sup>44</sup> This Convention is aimed at ensuring equal access for all people to employment regardless of sex, race, religion or ethnic origin. The Commission has consistently supported the principle that women should have equal access to employment opportunities. Several resolutions have been adopted over the years recommending that women and girls be granted equal vocational training opportunities to enable them to follow an employment of their choice, that provision be made for nursery education and the care of children of working mothers, that part-time employment be made available for women with family responsibilities, and that studies be made on the exploitation of home-workers and the problems of rural women. This area is, however, the area of concern of the ILO and the Commission showed itself reluctant to become involved in the elaboration of standards.

As for the abolition of prostitution the General Assembly adopted in 1949 the Convention on the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others.<sup>45</sup> The Commission on the Status of Women took no part in the adoption of this Convention which was the result of work which had been done earlier in the League of Nations.

#### (d) Educational Rights

The aims of the Commission in the field of education were said to be as follows:

"Equal opportunity for compulsory, free and full education; equal opportunity in all specialised fields and the right to enjoy scientific discoveries applied to human growth and development."

UNESCO is the organisation with responsibility for developing international standards relating to the elimination of discrimination in education. The Commission on the Status of Women has, however, recommended certain courses of action which UNESCO might follow in order to advance the status of women.<sup>46</sup>

The Commission did not anticipate the need for a Convention to deal with discrimination in education. The possibility of such a Convention was not discussed until the eleventh and twelfth sessions

in 1957 and 1958. At its tenth session in 1956 the Commission was presented with the draft report of the Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities on the subject of discrimination in education.<sup>47</sup>

The section dealing with discrimination based on sex was brief, as the Rapporteur pointed out that this was the special field of the Commission on the Status of Women. The Commission agreed to attend the next session of the Sub-Commission and present its views. Copies of the report of the tenth session were sent to the Sub-Commission, and the Secretary General was requested to prepare an analytical survey of information available relating to discrimination against women in education.<sup>47</sup>

During the meeting of the Sub-Commission in 1956 it was decided to recommend to the Commission on Human Rights that an international instrument relating to discrimination in education be prepared. The Commission on the Status of Women endorsed this view at its eleventh session but did not discuss the principles which the convention would contain as it was thought that this was the province of the Commission on Human Rights.<sup>48</sup>

UNESCO drew up a draft convention which was presented to the Commission on the Status of Women in 1960 at its fourteenth session.<sup>49</sup>

During the debate on the question Members of the Commission pointed to the need for access to the same facilities and the same curricula for boys and girls. They felt that the draft proposals, as they stood, were not clear enough on this point and passed a resolution to this effect addressed to UNESCO. The proposed amendment, to the dissatisfaction of the Members of the Commission was not incorporated into the Convention which was adopted by the General Conference of UNESCO in 1960.<sup>50</sup>

The Convention covers discrimination in education in all its forms, on the grounds of race, colour, language, religion, political and other opinion, national or social origin, or economic condition as well as sex. Article 2 provides that it is not to be deemed discriminatory if a Government permits the establishment or maintenance of separate education systems for pupils of the two sexes where these systems offer equivalent access to education and afford the opportunity to take the "same or equivalent" courses of study. It was this latter reservation that had disappointed the Commission,

as it was pointed out that such a reservation would allow States to continue to treat education for females as a different kind of education than that for males.

Since the adoption of the Convention the debates within the Commission have centred around the report of the representative of UNESCO and have concentrated on the difficulties of implementation of the principle of non-discrimination in education.<sup>51</sup>

(f) The Declaration on the Elimination of Discrimination Against Women

The General Assembly invited the Commission to prepare a draft declaration on the elimination of discrimination against women as part of the Programme for Concerted International Action for the Advancement of Women.<sup>52</sup>

The benefits of adopting a declaration of this kind were debated at the eighteenth session of the Commission in 1965 where some of the delegates agreed that the very existence of such a declaration would prove an incentive to both governments and NGOs in their work for the advancement of women. It was also suggested that a declaration would help focus attention on existing international conventions and encourage their ratification. It would also fill out the gaps in these Conventions and to this end it would cover all the areas in which discrimination against women existed. Some representatives took the view that detailed provisions would be out of place in a declaration and to raise maximum support the declaration should contain outlines of general principle rather than specific obligations.<sup>53</sup>

At the nineteenth session during the general debate on the declaration, some members of the Commission agreed that it should be a "progressive" instrument which would aim "at setting forth all the noble and justified aspirations of women all over the world and should contain a series of principles valid for future generations".<sup>54</sup>

The draft declaration was discussed at the nineteenth and twentieth sessions of the Commission, and was adopted by the General Assembly in 1967.<sup>55</sup>

The General Assembly had made only a few, but telling, amendments to the text proposed by the Commission including the insertion of references to the necessity of ensuring the stability of the family and the addition of clauses relating to protective labour legislation.

The Declaration constitutes a bill of rights for women and is based on the belief, outlined in Article I that,

"discrimination against women, denying or limiting their equality of rights with men, is fundamentally unjust and constitutes an offence against human dignity."

The Declaration provides that all appropriate measures shall be taken to abolish existing laws, customs, regulations and practices which discriminate against women, and that adequate legal protection be established to safeguard the equal rights of men and women. In particular, the Declaration states, the principle of equality of men and women shall be enshrined in the constitution or otherwise provided by law. The same Article, 2, urges the ratification of international instruments relating to the status of women. Article 3 provides that measures shall be taken to educate public opinion and "to direct national aspirations" towards the eradication of prejudice. Article 11 urges Governments, NGOs and individuals to take action to promote the principles contained in the Declaration. The substantive provisions of the Declaration are contained in Articles 4-10. Women are guaranteed;

1. The right to vote in elections and referenda, the right to hold public office and the right to exercise public functions (Article 4),
2. The same rights as men in the field of civil law including the right to acquire and administer property, the right to equality in legal capacity, the right to freedom of movement, the same rights as men to enter marriage and the same rights during marriage, the same rights as parents. The Declaration also demands the prohibition of betrothal or marriage of girls before puberty and the definition of a minimum age of marriage (Article 6),
4. The same rights under the penal code (Article 7),
5. The protection of women from traffic in their persons and from exploitation of prostitution (Article 8),
6. Equal educational opportunities including access to information relating to family planning (Article 9),



7. Equal rights in economic and social life, including equal access to employment, vocational training, pension and social security benefits. Protection of the rights of working mothers and the protection of women from types of work which may be detrimental to their health. (Article 10).

The Declaration was adopted unanimously by the General Assembly in 1967. Some States, those whose law is based on Koranic principles such as Saudi Arabia, abstained from the vote. It embodies many of the principles which had been discussed in the Commission and which had been the subject of resolutions and recommendations by the Commission to ECOSOC.

The Declaration has no legal effect, being merely a resolution of the General Assembly. This is the view expressed by several states when requested to comment on the legal nature of the Declaration.

"Austria (a moral obligation); Finland (valuable moral support ... it does not oblige the Member States to take any concrete measures); Hungary (a highly significant instrument ... imposes no obligation under international law); Poland (only moral force); Philipinnes (the Declaration... though desirable for its flexibility, has only a limited moral persuasive influence on States)."56

Only the Netherlands, of the States which responded to a request for an opinion from the Secretary General, replied that "the Declaration is of great moral, and to a certain extent also legal significance."<sup>57</sup>

Despite this statement however it must be acknowledged that whatever moral or political arguments may be adduced in support of the Declaration it remains a resolution of the General Assembly and, as such, has no legal force.

## 2. The Programmatic Activities of the Commission

Since the 1960s the Commission has become increasingly involved with the work of other United Nations' bodies which have an interest in the status of women. The influence of the General Assembly (described in Chapter 3 above), with its preferred emphasis on long-term programmes of action such as the Development Decades, has meant that much of the work of the Commission is now oriented towards the planning of future programmes of action and the setting of distant objectives. This work was initiated as early as 1962 and four major developments

have occurred; (a) the Unified Long Term Programme for the Advancement of Women, (b) the International Year for Women, (c) the World Plan of Action for the Implementation of the Objectives of the International Women's Year, (d) the Programme for the United Nations Decade for Women.

(a) The Unified Long-Term Programme for the Advancement of Women

The General Assembly initiated in 1962 a Unified Long Term Programme for the Advancement of Women, Resolution 1777 requested the Secretary General to:-

"Study in cooperation with Member States, the specialised agencies, the United National Children's Fund and appropriate non-governmental organisations, the possibility of providing and developing new resources aimed especially at the initiation and implementation of a unified long-term United Nations Programme for the Advancement of Women ... and within the scope of these advisory services in the field of human rights and the advisory social services welfare programmes to study especially the possibility of expanding the assistance that can be rendered through seminars, fellowships and services of experts for the advancement of women in developing countries."<sup>58</sup>

At its seventeenth session in 1964 the Commission requested the Secretary General to supply it with information relating to the resources available to all the organisations in the United Nations system and how such resources were distributed. He was also asked to explore the possibility of facilitating the cooperation of NGOs and United Nations bodies in programmes relating to the advancement of women in developing countries. The Commission also drew the attention of the regional commissions to the desirability of appointing women to their staffs.<sup>59</sup>

The report of the Secretary Genral was presented to the eighteenth session of the Commission, and it was explained to the members that the only existing programme in the United Nations system which was expressly concerned with women's rights was the programme of advisory services in the field of human rights, although those programmes which aimed to raise the standard of living of the population did, in fact, advance the status of women.<sup>60</sup>

Having heard this report the Commission adopted a series of resolutions on action to be initiated by ECOSOC. The first of these related to the desirability of establishing training centres for women in developing countries to encourage women to participate in the economic, political and cultural life of their countries. The second resolution

stressed the desirability of cooperation between existing national commissions on women. The Commission also requested the Secretary General to arrange to have his report printed and distributed, and he was further asked to prepare a report on the participation of women in community development for the next session of the Commission. Finally the Commission asked the Secretary General to prepare a report on the status of women and family planning.<sup>61</sup>

At the nineteenth session the Commission approved the basic objectives of the long-range programme as being:

- "(a) To promote the universal recognition of the dignity and worth of the human person and of the equal rights of men and women in accordance with the Charter of the United Nations and the Universal Declaration of Human Rights;
- (b) To enable women to participate fully in the development of society in order that society may benefit from the contribution of all its members;
- (c) To stimulate an awareness among both men and women of women's full potential and of the importance of their contribution to the development of society."<sup>62</sup>

There is an evident difference between these objectives for action and those which had been laid down by the nuclear Sub-Commission in 1946. There is the same emphasis on the human dignity and worth of women but the actual plans for action are couched in terms which are both vague and ill-defined. Women are to participate in the full development of society, and international organisations are to act as a consciousness raising element so that the world will be aware of the full potential of women. It is difficult to comment on these aims as they, in effect, say very little. They do not provide an indication of how the Commission or the United Nations is to set about achieving this participation of women in the development of society. This is a clear contrast to the defined aims of the Commission in its earlier years where there was some consensus of the measures which the Commission thought necessary to achieve the advancement of women. It was up to the Secretary General in his report to the nineteenth session (1966) on the unified programme to suggest how the programme might be developed:

"The suggestions (of the Secretary General) related to the basic objectives of such a programme and the action that might be taken (a) to establish specific goals to be achieved; (b) to determine the special needs and problems of women in relation to these goals.

and in relation to economic and social development; and (c) to intensify action to meet these needs and overcome these problems in order to achieve the goals established. It was also suggested inter alia that the phase of the long-term programme concentrating on the intensification of action might be launched in 1968, the International Year of Human Rights, and that, in order to determine the scope of this stage of the programme, Member States might be invited to formulate national long-term programmes ..."<sup>63</sup>

At this same session WHO and FAO were asked to report on the activities undertaken within these organisations for the advancement of women. A further resolution requested an increase in staffing in the Secretariat to improve its efficiency.

The 1968 Conference of Human Rights in Teheran adopted a Resolution entitled "Measures to Promote Women's Rights in the Modern World Including a Unified Long-Term Programme for the Advancement of Women".<sup>64</sup> Governments were asked to draw up national programmes for the advancement of women, and United Nations bodies were requested to review their activities in order to assist in such programmes where appropriate. The Commission on the Status of Women was requested to examine; (a) the question of education of women and their contribution to development, (b) the possibility of elaborating conventions where required, (c) its own work programme in the light of the needs of women in the contemporary world.

These programmes were endorsed at the twenty-second session of the Commission in 1969 but the Commission added the following points;

- "(a) Priorities in setting goals and targets for each region in relation to its particular needs;
- (b) Ascertaining problems of common interest requiring international consultation;
- (c) Paying particular attention, in planning international consultations, to such problems as apathy among women in relation to their role in public life;
- (d) Wider use of communication media in informing the public about the need for a greater participation of women in the economic and social life of their countries;
- (e) The adverse effects of existing discriminatory attitudes of men and women themselves towards the advancement of women in society;
- (f) The education required by the mother, especially as the teacher of the pre-school child, with a view to helping the child to develop in all aspects;
- (g) Education for responsible parenthood."<sup>65</sup>

It was not until the twenty-third session in 1970, however, that a full programme was drawn up.<sup>66</sup> The Commission recommended that the objectives set forth in its resolution should be achieved as widely as possible during the Second United Nations Development Decade and invited all the Member States of the United Nations, the specialised agencies, and organs and agencies within the United Nations system to cooperate in the achievement of these aims. The Programme lists nine objectives which are as follows:

- "(a) The ratification of or accession to relevant international conventions.
- (b) The enactment of national legislation in conformity with these international instruments.
- (c) The taking of measures to ensure implementation of these instruments.
- (d) The development of educational programmes to make women aware of their rights under various international conventions and to educate public opinion to support them.
- (e) The assessment of women's role in the economic sector in order to develop plans for their greater integration in the economy.
- (f) The study of the effects of scientific and technological change on the status of women.
- (g) The elaboration of short and long-term plans for the integration of women in development.
- (h) The establishment of review machinery.
- (i) The utilization of women's enthusiasm for the benefit of society."<sup>67</sup>

The Commission's recommendations were accepted by the General Assembly which, in 1970, adopted unanimously a Programme of Concerted Action for the Advancement of Women as part of the Second United Nations Development Decade (1970s).<sup>68</sup> The resolution setting out the programme contains both general objectives and minimum targets to be achieved during the Decade.<sup>69</sup>

The general objectives are:

- (i) ratification of, or accession to, international treaties relating to the status of women;
- (ii) enactment of legislation at the domestic level to bring national law into conformity with international standards;
- (iii) development of large-scale educational programmes to ensure awareness of U.N. standards in conventions, resolutions and, especially, the 1967 Declaration on the Elimination of Discrimination Against Women;
- (iv) assessment of women's contribution to the political and economic life of each State with a view to establishing targets for the increased participation of women in these sectors;



(v) study of the impact of technological change on the status of women;

(vi) elaboration of programmes to achieve these objectives and provision of resources for programmes which advance the status of women;

(vii) establishment of national review machinery to evaluate the role of women in various sectors;

(viii) utilization of the talents of women for the benefit of society.

These then are the general objectives of the Programme. They are to be achieved by the pursuit of minimum targets in education, training and employment, health and maternity protection, and public life. The minimum targets are extremely detailed and rather unrealistic in their extent. In training and employment, for example, the targets include: provision of the same vocational advice and guidance to both sexes; equal access of girls and women to vocational training and retraining; universal acceptance and implementation of the principle of equal pay for equal work; acceptance of the policy of non-discrimination in relation to the employment of women; increases in the numbers of women in skilled and technical work and in posts of responsibility; increases in opportunities for involvement of women in agricultural development and services. Such targets cannot be described as realistic minimum international standards. They provide instead a catalogue of rather lofty aims to be achieved in the long-term.

(b) The World Plan of Action for the International Women's Year

After the adoption in 1970 of the Concerted Programme the General Assembly decided to proclaim 1975 as International Women's Year.<sup>70</sup>

The year was to be devoted to intensified action:

"(a) To promote equality between men and women;

(b) To ensure the full integration of women in the total development effort, especially by emphasizing women's responsibility and important role in economic, social and cultural development at the national, regional and international levels, particularly during the Second United Nations Development Decade;

(c) To recognise the importance of women's increasing contribution to the development of friendly relations and cooperation among States and to the strengthening of world peace."

At its twenty-fourth session, in 1974, the Commission on the Status of Women recommended to ECOSOC a programme of activities for the Year, including the organisation of a World Conference "as a focal point of, the international observance of the Year".<sup>71</sup> ECOSOC accepted the

recommendations of the Commission and called on the Secretary-General to convene such a conference whose objectives were stated to be:

"to examine to what extent the organisation of the United Nations system have implemented the recommendations for the elimination of discrimination against women made by the Commission on the Status of Women since its establishment, and to launch an international action programme including short-term and long-term measures aimed at achieving the integration of women as full and equal partners with men in the total development effort and eliminating discrimination on grounds of sex, and at achieving the widest involvement of women in strengthening international peace and eliminating racism and racial discrimination." 72

The twin purposes of the Conference were therefore; to review the achievements of the United Nations in implementing the goals set by the Commission on the Status of Women, and, to establish a future programme of action. The function of review and appraisal is described elsewhere in this thesis. The concern of this chapter is in the programmes of action.

The Conference was held in Mexico City from 19 June to 2 July, 1975. The Conference adopted a World Plan of Action for the Implementation of Objectives of the International Women's Year, two Regional Plans of Action and thirty six resolutions containing recommendations or decisions of the Conference.<sup>73</sup>

#### (c) The World Plan of Action

Even more than the Unified Long-Term Programme the World Plan of Action lays stress on the necessity of action at the domestic level. One hundred and ten of the two hundred and nineteen paragraphs outline a programme of national legislative and administrative action. Member States of the U.N. are urged to take action in the fields of political participation, education and training, employment and related economic fields, health and nutrition, the family, population, housing and other social questions. The Plan lays down guidelines for action, for example, paragraph 90 provides that,

"Governments shall formulate policies and action programmes expressly directed towards equality of opportunity and treatment for women workers and guarantee their right to equal pay for equal work."

In the field of housing policy the Plan provides (paragraph 149),

"Legislative and other measures should be taken to guarantee that the views and needs of women are taken into account in the planning and design of urban and housing development as well as human settlements."

At the regional level the Plan envisages that the relevant regional economic commissions will provide support and technical expertise for those States who require help in carrying out surveys, planning new policies for the integration of women in society and supporting new projects aimed at improving the status of women.

At the global level the United Nations declared the decade 1975-1985 as the United Nations Decade for Women and Development to ensure that action be sustained throughout the period. The Plan envisages an inter-organisational programme of coordinated activity throughout the U.N. system whose aim would be to achieve the implementation of the objectives set out in the Plan itself, although no indication is provided of the kind of programme to be established. U.N. agencies are urged to give high priority to the needs of women in their operational activities and the international community is urged to prepare new international conventions or declarations embodying new international standards relating to the status of women. Finally, at the global level, the Plan envisages the possibility of exchanges of information and experience by means of seminars, conferences, and educational programmes.

(d) Programme for the United Nations Decade for Women

The Programme for the Decade<sup>74</sup> was consolidated at the twenty-sixth session of the Commission on the Status of Women. The basis for the Programme is found in the World Plan of Action, the Declaration of Mexico on the Equality of Women and their Contribution to Development and Peace,<sup>75</sup> and various resolutions previously adopted by the General Assembly and ECOSOC relating to the integration of women into the development process.

The Programme sets out a series of minimum objectives which were to be achieved by 1980. These fourteen minimum objectives include the improvement of access to education, employment, and health facilities for women and the recognition of equality of women in civil law. The objectives also envisage the establishment of machinery within Governments to accelerate the achievement of equal opportunities for women and the promotion of women's organisation.

The Programme thereafter is divided into sections providing for action to be taken at the international, regional, and national level to attain the objectives of the Decade. These areas of action follow closely the World Plan of Action and provide no new programmes or suggested activity. Indeed the Programme for the Decade is merely a

rewritten version of the World Plan of Action.

Observations on the Programmatic Activity of the Commission

The development of large scale programmes of action of the type described above is typical of the activity of the United Nations in various fields. It follows closely the pattern of activity of the United Nations in development and is a result of the bureaucratization of the United Nations. Bureaucratization in this sense means the increasing emphasis on planning (very largely planning for its own sake) and away from activity. The activity of the organisation has become the planning process which is seen as an end in itself. The long-term and large scale plans of action described above have become the end of the United Nations in the field of womens rights and the function of the Commission in this area has been reduced to the two activities of (a) preparing for meetings and conferences at the U.N. level and (b) coordinating programmes of action adopted elsewhere.

As far as the impact of such programmes is concerned, that is a consideration which seems to be immaterial as programme plan follows upon programme. Since 1962 the Commission has been involved in the elaboration of such programmes yet there is little evidence since that date that it has ever questioned the utility of such activity or examined the results of its endeavours. Without such an attempt to relate programmatic activity to the realities of life of women then this kind of work within the Commission must be deemed irrelevant and, indeed, dysfunctional. At the twenty-six session of the Commission more than half the time of the Commission was taken up collating decisions taken elsewhere and over which it could exercise neither power nor influence. At some stage a reappraisal of the work of the Commission must lead it to question the necessity of ever more long-term planning.

A further point to be noted here is the relatively minor role which the Commission is allowed to play in developing these programmes. Although the time of the Commission has been taken up discussing plans of action the actual decisions as to content were taken elsewhere, either within the General Assembly or during the 1975 Conference. The Commission's role is merely one of adopting the written formula as prepared for it by the Secretariat and, as such, is very limited.

## CHAPTER FOUR

### NOTES

1. E. W. Vierdag, The Concept of Discrimination in International Law, (1973) p.90.
2. The aims of the Commission set out in U.N. Doc. E/281/Rev.1.
3. General Assembly resolution 56(I), 1946. At the third session of the Commission on the Status of Women it was noted that 35 States granted women the same political rights as men, U.N. Doc. E/1316.
4. U.N. Doc. E/1316.
5. The Charter of the Organisation of American States, adopted at the same time, contains the principle that the fundamental rights of the individual are proclaimed without distinction as to race, nationality, creed or sex. The American Declaration on the Rights and Duties of Man, also adopted in 1948, contains the principle that every person having legal capacity is entitled to vote in popular elections and to associate with others to promote his political interests. The corollary to this right is the duty to vote and the right to hold any public office to which s/he may be elected. For a full text of the Declaration see Ian Brownlie, Basic Documents in International Law (1971), p.389. For a report on the 1948 Conference see Charles G. Fenwick, "The Ninth International Conference of American States" 1942 A.J.I.L. Vol.42 p.553.
6. Alice Erh-Soon Tay, "Marxism, Socialism and Human Rights" in Eugene Kamendk (ed.), Human Rights, (1978) p.108.
7. U.N. Doc. E/1997/Rev.1.
8. The Convention was opened for signature and ratification by General Assembly resolution 640(VII), 1952. It entered into force 7th July, 1954. For text see United Nations, Human Rights: A Compilation of International Instruments of the United Nations, (1973), p.90.
9. Supervisory measures are discussed in the following chapter.
10. Katherine Piepmeyer, Changing Women's Status Through Law, (1976), unpublished.
11. See Chapter One.
12. McDougal, Lasswell and Chen, "Nationality and Human Rights: The Problem of the Individual in External Areas", 1973/4, Yale Law Journal, Vol.83, p.900.
13. A report of the Secretary General in 1963 indicated that under the laws of twenty eight States a woman automatically assumed the nationality of an alien husband. In sixty eight States the woman could assume the nationality of the husband under certain conditions and only in twelve States did marriage to an alien not affect the status of the wife. Report of the Secretary General on the Nationality of Married Women, (1963).



14. McDougal, op.cit. in note 12 above.
15. U.N. Doc. E/1316.
16. U.N. Doc. E/1712.
17. ECOSOC resolution 304 (XI), 1950.
18. U.N. Doc. E/2401.
19. Ibid.
20. U.N. Doc. E/2571.
21. U.N. Doc. E/2727.
22. General Assembly resolution 1040(XI), 1957. It entered into force 11th August, 1958. For text see Human Rights: A Compilation, op.cit. in note 8 above.
23. U.N. Doc. E/2401.
24. General Assembly resolution 843(IX), 1954.
25. The same Conference drafted a Convention, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, one of whose provisions, Article 1 reads, "the States Parties undertake to prescribe, where appropriate, suitable minimum ages of marriage, to encourage the use of facilities whereby the consent of both parties to a marriage may be freely expressed in the presence of a competent civil or religious authority, and to encourage the registration of marriages."
26. U.N. Doc. E/2968.
27. U.N. Doc. E/3096.
28. ECOSOC resolution 680B(XXVI), 1958.
29. U.N. Doc. E/3228.
30. ECOSOC resolution 722B/XXVII), 1959.
31. U.N. Doc. E/3360.
32. U.N. Doc. E/3464.
33. General Assembly resolution 1763A(XVII), 1962. The Convention entered into force 9th December, 1964. For text see Human Rights: A Compilation, op.cit., in note 8 above.
34. General Assembly resolution 2018(XX), 1965. For text see Human Rights: A Compilation, op.cit. in note 8 above.

35. See U.N.Doc. E/CN.6/492, Report of the Secretary General on the Status of Women in Private Law. In 1948 the Commission noted divergencies in various legal systems some of them restricting the right of women to act as guardians, to control property and earnings, and to undertake independent business ventures, and to engage in other activities. The Commission recommended that States take measures to grant full legal capacity to women in order to enable them to exercise their rights in these fields on the same basis as men. Adopted by ECOSOC in resolution 154G (VIII). In 1953 the Commission expressed the belief that the sharing by the spouses of authority, prerogatives and responsibilities involved in marriage would not only enhance the status of women but also be of benefit to the family as an institution. The Commission therefore recommended that governments take measures to give the wife full legal capacity, the right to engage in work outside the home and the right to acquire, administer, enjoy and dispose of property. Adopted by ECOSOC in resolution 504D(XVI). In 1954 the Commission adopted a resolution in favour of statutory matrimonial regimes which would provide for the separation of property acquired during marriage or for common ownership of property acquired by both spouses during marriage, such community property to be administered jointly by the spouses, in either case, on dissolution of marriage, property acquired during marriage would be divided equally between them or their heirs. Adopted by ECOSOC in resolution 547I(XVIII). Also in 1954 the Commission again recommended that the wife be given the right to undertake work outside the home and to administer and to dispose of her earnings without the husband's authorisation. Adopted by ECOSOC in resolution 547J (XVIII). In 1955 the Commission recommended that the wife be given the right to an independent domicile. Adopted by ECOSOC in resolution 587D (XX). In the same year a resolution was adopted acknowledging the equality of parents in the exercise of rights and duties with regard to their children. Adopted by ECOSOC in resolution 587DII(XX). In 1961 the Commission recommended that men and women be treated equally in matters of income tax. Adopted by ECOSOC in resolution 821D (XXII). In 1965 the Commission recommended that men and women, in the same degree of relationship to a deceased person shall be entitled to equal shares in the estate and shall have equal rank in order of succession. Adopted by ECOSOC in resolution 884D (XXXIV). In 1965 the Commission recommended that there should be equality of rights between men and women in matters concerning the dissolution of marriage, annulment of marriage, and judicial separation. Adopted by ECOSOC in resolution 1068F (XXXIX). In a resolution of 1967 relating to parental rights and duties the Commission recommended that equal rights should be given; (i) in respect of the guardianship of minor children and the exercise of parental authority including care, custody, education and maintenance of such children; (ii) in the administration of the property of minor children (which should be administered in the interests of the child); (iii) in questions of divorce, the interests of any children of the marriage shall be paramount; (iv) in decisions regarding the future of the children at the time of the divorce there should be no discrimination between the mother and the father. In these cases the interests of the

child should be the guiding factor. Adopted by ECOSOC in resolution 1207 (XLII). One resolution of the Commission was adopted not by ECOSOC but by the General Assembly. This resolution called for the abolition of customs, ancient laws and practices which discriminate against women. The resolution called for complete freedom in the choice of a spouse, the abolition of the bride-price and polygamy, the right of widows to custody of their children and the freedom to remarry, the elimination of child marriage and the betrothal of young girls before puberty, the registration of marriages and, where these are granted, the provision of family allowances for the benefit of the child. Adopted by General Assembly resolution 842(IX).

36. Maternity Protection Convention (1921) (No.3), Night Work (Women) Convention (1921) (No.4), Night Work (Women) (Revised) Convention (1936) (No.45).
37. Night Work (Women) (revised) Convention (1951) (No.89), Convention on Equal Remuneration for Men and Women Workers for Work of Equal Value (1951) (No.100), Maternity Protection (Revised) Convention (1955) (No.103), Plantations (Part VII, Maternity Protection) Convention (1960) (No.10), Equality of Treatment (Social Security) Convention (1964) (No.118).
38. U.N. Doc. E/615.
39. U.N. Doc. E/1316.
40. U.N. Doc. E/1712.
41. U.N. Doc. E/1997/Rev.1.
42. U.N. Doc. E/2208. For text of the Convention see Human Rights: A Compilation, op.cit. in note 8 above.
43. The treaty entered into force 23rd May, 1953, in accordance with article 6 which provides that it "shall come into force twelve months after the date on which ratifications of two Members (of the ILO) have been registered with the Director-General". Seventy four States have ratified the Convention.
44. For text see Human Rights: A Compilation, op.cit. in note 8 above. The treaty entered into force 15th June, 1960, in accordance with article 8 which provides that it "shall come into force twelve months after the date on which the ratifications of two Members (of the ILO) have been registered with the Director-General". Seventy-seven States have ratified the Convention.
45. For text see Human Rights: A Compilation, op.cit., in note 8 above. The treaty entered into force 25th July, 1951, in accordance with article 24 which provides that "the present Convention shall come into force on the ninetieth day following the date of deposit of the second instrument of ratification or accession". Fifty-nine States have ratified the UNESCO Convention.

46. At its second session the Commission recommended that States grant women equal educational rights with men and afford them equal educational opportunities, U.N.Doc. E/615. On the question of women's access to employment the Commission recommended at its sixth session that governments (a) guarantee to women and equal right with men to work, (b) guarantee to women and girls access to all forms of training and, (c) to ensure provision of training facilities for all, regardless of sex, U.N.Doc. E/2208.
47. U.N. Doc. E/2850.
48. U.N. Doc. E/2968.
49. U.N. Doc. E/3360.
50. For text see Human Rights: A Compilation, op.cit. in note 8 above. The Convention entered into force 22nd May, 1962 in accordance with article 14 which provides that it "shall enter into force three months after the date of deposit of the third instrument of ratification."
51. The General Conference of UNESCO adopted in 1966 a long-term programme for equal access of women to education, science and culture. The purpose of the programme is to ensure application of the right to education as it concerns women and the full participation of women in development as a result of education, training and employment, in all phases of life and taking due account of their role in family and society. For a description of the work of UNESCO in this field see U.N. Doc. E/CN.6/604.
52. General Assembly resolution 1921 (XVIII), 1963.
53. U.N. Doc. E/4025.
54. U.N. Doc. E/4175.
55. General Assembly resolution 2263 (XXII), 1967. For text see Human Rights: A Compilation, op.cit., in note 8 above.
56. U.N. Doc. E/CN.6/573.
57. Ibid.
58. General Assembly resolution 1777 (XVII), 1962.
59. U.N. Doc. E/3749.
60. U.N. Doc. E/4025.
61. Ibid.
62. U.N. Doc. E/4175.
63. Ibid.

64. United Nations Action in the Field of Human Rights (1974).
65. U.N.Doc. E/4610
66. U.N.Doc. E/4831.
67. Ibid.
68. General Assembly resolution 2716 (XXV), 1970.
69. For a full description see "Equal Rights for Women - A Call for Action", U.N.1973.
70. General Assembly resolution 3010 (XXVII), 1972.
71. U.N. Doc. E/5109.
72. ECOSOC resolution 1851 (LVI), 1974.
73. U.N. Doc. E/Conf.66/34.
74. U.N. Doc. E/5909.
75. Adopted at the 1975 Conference, E/Conf.66/34.



C H A P T E R   F I V E

SUPERVISORY ACTIVITY OF THE COMMISSION

## CHAPTER FIVE

### SUPERVISORY ACTIVITY OF THE COMMISSION

The elaboration of international legal standards relating to the status of women in the Commission on the Status of Women has led to an increased interest within the Commission with the problem of the implementation of these principles for, as Landy states,

"the adoption of international legislation and its formal acceptance by a growing number of countries cannot, by themselves, add to the stability of inter-State relations, unless there also exists some degree of assurance that the contracting parties really comply with their obligations ....."<sup>1</sup>

He goes on to argue that reliance on the twin principles of international law of pacta sunt servanda and the good faith of states in their compliance with international obligations are insufficient to guarantee "a durable system of global rights and duties".<sup>2</sup> For this reason a substantial effort has been made to create supervisory machinery in order to verify governmental compliance with international human rights standards.

The form which such supervisory machinery will take depends on the nature of the obligation concerned as well as such factors as the number and type of States which have assumed such obligations. Within the Commission on the Status of Women several types of supervisory machinery exist or existed and this chapter will attempt to assess the degree of success of the Commission in developing satisfactory supervisory activities which could verify the extent of government compliance with the standards developed by the Commission. The chapter focuses on three such procedures; reporting procedures by governments to the Commission, individual communications, and reports and studies by the Secretary-General.

#### Reporting Procedures by Governments

Reporting procedures are extensively used within the United Nations system to estimate the degree of compliance with international obligations. The principle behind these procedures is simple. Contracting Parties to a treaty agree to submit reports to some specific groups on the measures which they have taken to implement the obligations in the treaty and/or on any individual factors which may explain the extent to

which that State complies with its obligations. Alternatively States may be asked by virtue of their membership of a particular organisation, to report on measures which they have taken to comply with international standards developed in that organisation. In the first of these alternatives there is an obligation on the States which become parties to the treaty to present a report whilst in the second, the system may be based on voluntary cooperation.

The effectiveness of reporting procedures has been questioned. In his survey of United Nations reporting procedures Humphrey notes the less than enthusiastic response by states to their obligations to report on the measures which they have taken to implement certain of the United Nations standards relating to human rights. He states,

" If reporting on measures taken and progress achieved towards the realization of human rights is ever to become an effective institution in the United Nations, procedures must be developed along the lines issued by the ILO for the examination of the reports by independent experts under conditions which will permit them to perform their functions critically, objectively and efficiently without fear of reprisal or hope of reward. "3

The system of reporting in the ILO is also discussed by Haas who compares the system of periodic reports on human rights unfavourably to that in the ILO,

"The reporting system now in force in the ILO is the only one that meets the requisite of a supervisory capacity ..... The system of periodic reports on human rights under the United Nations leaves a great deal to be desired; yet it is the only system now functioning apart from the ILO's. "4

It is not true to say that the system existing under the ILO and the periodic reports on human rights are the only systems now functioning. In the past, several reporting procedures were established relating both to the Conventions which deal specifically with women's rights and also to the general provisions in this field. Several of these procedures were consolidated in 1972 in an attempt to rationalize and thereby improve the effectiveness of reporting procedures concerned with the status of women.

## The Convention on the Political Rights of Women

The Convention on the Political Rights of Women does not provide for any system of implementation, neither, at the time of the adoption of the Convention, was any system discussed. However, in 1953

ECOSOC requested the States Parties to the Convention

"to report every two years to the Economic and Social Council on the measures taken by them to implement the provisions of the Convention."<sup>5</sup>

There seems to have been no response to this request for information and so the Commission, at its thirteenth session (1959), requested the Secretary General to ask States Parties to the Convention what measures they had taken to comply with its provisions.<sup>6</sup> Accordingly the Secretary General sent a circular letter to the 33 States which were parties to the Convention.<sup>7</sup> Of these States 8 replied and their replies were presented to the fourteenth session of the Commission.<sup>8</sup> All eight governments replied that in their countries women were given the same opportunities as men to vote and to be elected to public office. Two States (China and Israel) gave details of the relevant legislation. Denmark stated that women had the same rights of access to public service posts except as regards certain military positions. Denmark had made a reservation to this effect at the time of her ratification. Hungary stated that women in that country enjoyed rights over and above those laid down in the Convention. Greece pointed out that under pressure from Greek women's organisations the government had granted women a right, by a law of 1955, to be appointed to all public offices including the Judiciary and the Consular and Diplomatic Services.<sup>9</sup> No State gave any statistical breakdown of the numbers of women holding public office in their country i.e. the reports gave information relating only to the legal situation rather than the factual situation. At its fifteenth session the Commission was presented with information from two more States (Finland and Romania).<sup>10</sup> Both States claimed that women were granted the same political rights as those granted to men with the exception that in Finland certain civil functions were reserved to either men or women because of the nature of these functions. The Commission received information at its sixteenth session from 17 States,<sup>11</sup> and at this session decided to ask the Secretary General to repeat his request first made in 1953 that States report every two

years on the measures which they had taken to implement the Convention. At this same session the Commission decided to expand the reporting system to include Member States of the United Nations who were not parties to the Convention. These States were asked to supply,

" the Secretary General every two years with information it considers appropriate with regard to the implementation of the principles stated in the Convention, including particularly whether any women have been elected to the national Parliament and have been appointed to high governmental, judicial or diplomatic posts, such as minister or head of department, ambassador or member of delegations to sessions of the United Nations, General Assembly or of corresponding organs of the specialized agencies."12

The Secretary General was requested to supply a summary of the replies received in his regular reports on the implementation of the Convention. It was not clear at this session whether the Commission intended the reports under the Convention to be presented to it together with the reports under the procedure noted above. The Secretary General did, however, prepare his report as one single document.

The first in this series of reports was presented to the Commission at its eighteenth session in 1965.<sup>13</sup> Replies had been received from 54 governments, 29 of which were not parties to the Convention. Several of these governments had reported on their activities previously. All 54 governments stated that in their countries the law accorded the same political rights to men and women. Most replies gave the numbers of women in public service although none expressed these figures as a percentage of the whole. Somalia and Sudan explained that in these countries few women held public office. Somalia stated that, as yet, few women were qualified for public service posts and Sudan stated that there was a small but increasing number of women entering into the professions.

The reports presented in this cycle do not provide much information about the way in which women had exercised the rights laid down in the Convention, the right to vote and the right to access to public office. The reason for this is that the Commission itself had not indicated in sufficient detail the type of information which it required. No guidelines were given in the resolution which established this cycle of reports (Resolution 961B) as to the purpose of the reporting procedure.



They were merely requested to "provide information which they consider appropriate with regard to the implementation of the principles stated in the Convention". The Commission did not attempt to devise a way to elicit information from States as to whether they did discriminate formally or informally against women in the public sector, or whether governments were actively trying to encourage women to assume the responsibilities which had been given them under the Convention. This is a problem which recurs time and again in the reporting procedures established in the Commission. The purpose of having the reports seems unclear and when States do provide the information requested it is often too disjointed to be useful.

Another problem faced by the eighteenth session in 1964 was the question of the duplication of effort in the existence of reports procedures. In 1947 ECOSOC had invited the Secretary General to circulate to the General Assembly and the Commission on the Status of Women

" memoranda on constitutions, electoral laws and other legal instruments relating to the political rights of women."14

The purpose of these memoranda was to show what effect had been given to General Assembly Resolution 56 (I)(which recommended that all Member States of the United Nations should grant women equal political rights with men). The Commission had requested the Secretary General to prepare these reports annually so that the Commission could base its work on sound information. The reporting procedures which were later established had not been intended to replace these annual reports and the two systems existed side by side. However, at the eighteenth session the Commission decided to amalgamate these reports with the reports requested under Resolution 961B.<sup>15</sup> Accordingly ECOSOC requested the Secretary General

"(a) to prepare in 1966, with the necessary revisions, a consolidated report based on the annual memoranda on constitutions, electoral laws and other legal instruments relating to the political rights of women, and to issue thereafter annual supplements to that report;

(b) To prepare biennially the reports on implementation of the principles of the Convention on the Political Rights of Women requested in Resolution 961B(XXXVI) of 12 July 1963, and to combine these reports with the supplementary reports mentioned in sub-paragraph (a) above in a single document entitled "Political Rights of Women";

(c) To circulate this document to the General Assembly at its twenty-third session, 1968, and biennially thereafter. "16

The report before the Commission at its twentieth session in 1966 was the last in the series established by Resolution 961B.<sup>17</sup> Thirty five Member States had provided information and the Secretary General explained that

"some Governments have furnished general information, including constitutional and other legal provisions relating to political rights of women, and have also given data concerning women who have been elected to the national Parliament or appointed to high governmental, judicial or diplomatic posts. Other Governments have supplied only legislative provisions or other general information relating to women who have been elected to the national Parliament or appointed to high posts. "

Of the 35 States which had submitted information 19 had reported to the previous session. Seven more States had submitted reports which arrived too late to be included in the report of the Secretary General.<sup>18</sup> The information given in many of the reports is not helpful in either assessing how near women have come to achieving equal political rights in practice as well as in law, nor in determining States attitudes to their obligations as regards women's political rights. The report of the Government of Turkey, for example, states that,

"As in the past, Turkish women are elected to the Turkish Grand National Assembly and hold posts in all courts of law, including the Court of Appeals and the Council of State, and at the various levels of administration."<sup>19</sup>

Other reports merely give figures of the number of female judges, civil servants and so on. In contrast the Government of Czechoslovakia provides a very detailed and informative report giving statistics relating to women in the public sector. The Czech report expresses these figures as a percentage of the whole and shows clearly where women are over or under-represented. The Government of Italy was the only one which attempted to explain the small numbers of women in public life pointing out that there were so few women in the higher posts of the civil service because women had a tendency to study Humanities at University level (60% of humanities students were women) whilst the disciplines of economics and law were more fitting to the civil service.

These reports lack, on the whole, objectivity and serious analysis. For some Governments it might be difficult to respond to the many calls for information from the United Nations. This might be particularly true of the developing countries which have limited resources. However, certain developed countries have ignored the requests for information from the Commission. France had never reported on the measures taken to implement the obligations which she has assumed under the Convention on the Political Rights of Women. As far as the general standard of reporting is concerned, there seems to be no correlation between the level of development of a State and the quality of the report which it presents to the Commission. At the twenty-second session (1969) the Commission was presented with the first in the series of consolidated reports which had been requested in 1965.<sup>20</sup> The report was divided into two parts, the first dealing with constitutional provisions and legislation relating to the political rights of women, and the second concerned the implementation of the Convention on the Political Rights of Women. Forty-five States provided information and, again there was diversity in the type of information provided, but, in the main, facts and figures were given relating to the number of women in the public sector. These reports were also characterised by a lack of any critical stand-point. All the reports which had been presented to the Commission until 1968 accepted uncritically the viewpoints developed in the Commission on the Status of Women relating to the status and role of women. However, in the report presented to the Commission in 1968, one State, Saudi Arabia, attacked the work of the Commission and the standards developed in the United Nations. The Saudi Arabian Government believes that the principles enshrined in the Convention on the Political Rights of Women are contrary to the principles of the Koran. Accordingly Saudi Arabia is not a party to the Convention. The report of the Saudi Government explains that Saudi Arabia is subject to the law of the Koran which provides the law, constitution and moral code of an Islamic State. The report criticises the United Nations for its tendency to isolate one aspect of human rights law from another and for ignoring the fact that economic, social and political rights are connected. The report defined the Saudi Arabian concept of democracy, which does not take the form of representative government chosen by secret ballot in periodic

elections, but which is "an extensive exchange of views among the tribes and urban communities."<sup>21</sup> The report continues

"A false impression has been created in the minds of people unfamiliar with Islamic Law that owing to the fact that Saudi Arabia does not follow the ballot system, the Saudi individual or any resident in that State is governed arbitrarily without any recourse to justice provided by the Rule of Law.

Men and women alike are subject to the provisions of Islamic Law ...

The mass media of information is not only keyed nowadays to promote the sales of goods and commodities but also to condition the minds of men and women with propaganda, sometimes brash but often quite subtle, to extol certain ideologies or political systems for serving special interests. No doubt but that many women's organisations are well meaning in their crusade for so-called political rights for women. However, the feminist movement may ultimately defeat its purpose by striking at the very root of the family as the most basic institution of society, if these associations do not take into account the fact that the influence of women is paramount in all countries regardless of ideologies or political systems."<sup>21</sup>

(No other statement of this nature seems to have been made in any of the reports presented to the Commission since this statement.)

At this same session (1968) the Commission requested the Secretary General to invite Member States to provide fuller information on the implementation of the Convention and particularly to include statistical data and the percentages of women elected to the national Parliament and appointed to high judicial office. In his report to the twenty-third session (1969), however, the Secretary General noted that he had received no new reports on the implementation of the Convention.

Forty eight States provided information in time for the twenty-fourth session (1972)<sup>22</sup> Many of these reports were confined to the statement that men and women were granted equal political rights and then went on to give the figures of women in high elective and appointed posts. The Government of Jordan reported that although women had the right to vote they were not eligible for election to Parliament or to municipal or village councils. The report did not indicate whether steps would be taken to rectify this situation. Burundi, Niger and Somalia explained the low numbers of women holding office in these countries was due to the fact that women's education was of comparatively recent origin in these countries and hopefully that the figures



would improve.

The most useful report in this series was that presented by the United Kingdom, which gave a breakdown of the numbers of women employed in the various grades of civil service and analysed the reasons why women were under-represented at the top levels. The report noted that the United Kingdom Government found the situation unsatisfactory and set out ways whereby it hoped to achieve a proper balance within the service. These measures included the encouragement of careers advisory officers to point out opportunities for women to enter the civil service, the provision of day-care facilities, maternity leave and other assistance to women with family duties and the possibility of more part-time work for women whilst maintaining seniority and promotion opportunities.

The report of the Government of Kenya provided a comprehensive review of the figures of women employed in both the public and private sectors, pointing to the fact that women were entering into employment in greater numbers (although this did not seem to be borne out by the figures provided) but that women employed in the public sector earned considerably less than men in the same positions.

At this same session, the twenty-fourth, the Secretary General proposed to the Commission, in his report on the view of the work programme<sup>23</sup> that the reports by Member States on the Convention on the Political Rights of Women and his reports on national laws and constitutions relating to the political rights of women should be amalgamated into the reports on the Implementation of the Declaration on the Elimination of Discrimination Against Women and presented every four years to the Commission. This suggestion was agreed at that session and therefore no more reports have been discussed by the Commission relating to the Convention.

The reporting procedure under Resolutions of the Economic and Social Council relating to the political rights of women cannot be said to have been successful as a system of supervision. A number of reasons can be given for this:

1. The number of States replying to the requests for information was too low. Eight States out of a possible 32 provided information for the first series of reports and when the procedure was opened



to all Member States of the United Nations less than half of these States responded. It is difficult to tabulate these figures precisely as the procedures changed so often that a regular pattern could not emerge. Also the numbers of Members States of the United Nations change from year to year and it would be difficult for new members to immediately produce reports on policies with which they were unfamiliar. However, a rough table can be drawn up;

<u>Request for information</u>	<u>Possible Replies</u>	<u>Actual Replies</u>
Resolution of ECOSOC 504E (1953)		
1959	33 <sup>a</sup>	8(1960)
1962		17
1966	46 <sup>a</sup>	35
Resolution of ECOSOC 961B (1962)		
1965	117 <sup>b</sup>	54
1966	122 <sup>b</sup>	35
Resolution of ECOSOC 1132 (1965)		
1969	126 <sup>b</sup>	45
1972	132 <sup>b</sup>	48

a. Number of States which had ratified the Convention.

b. Number of States Members of the U.N. for that year.

2. There was no consistent pattern of reporting from States. Some Governments consistently responded to requests for information (the Soviet bloc countries, Canada, Afghanistan). Other countries reported several times but not to every request for information (Finland, United Kingdom, Austria). Other countries replied only once or twice and others not at all (France).

3. The reports which were presented were not particularly informative. They were unbalanced as regards their content. Undue emphasis was placed on the legal situation of women and little or no evidence was presented to show if and how women were exercising their rights. The fault here lies with the Commission which failed to develop any guidelines as to the type and nature of information which it required. Requests for information were couched in very vague terms e.g. Resolution 504 requests the States Parties to the Convention

to report every two years to the Economic and Social Council on the measures taken by them to implement the provisions of the Convention.

Resolution 961B asked all the States Members of the United Nations

to supply the Secretary General every two years with information (which they) consider appropriate with regard to the implementation.....

States were therefore not requested for specific information with the result that the reports when presented were in very vague terms. This approach can be contrasted to that of the International Labour Office which, in its requests for information, provides a detailed questionnaire.<sup>24</sup>

4. The reports lacked any serious analysis and little critical effort. This is partly due to the fact that no check is made on the information provided by the State. Again this can be contrasted with the situation in the ILO where representatives of trade unions and employers organisations are also invited to comment on the development in their country relating to labour standards. Without such a check Governments are free to present information in a very selective way and from the description of the reports presented above it is clear that all the Governments which responded provided very selective information indeed. This information was almost entirely concerned with the legal situation and omitted almost completely any statistical analysis.

#### The Recommendations on Consent to Marriage 1965

The Convention on Consent to Marriage of 1962 did not establish any form of reporting procedure. However, the General Assembly, when adopting the Recommendation on Consent to Marriage in 1965, decided to establish machinery to supervise the implementation of the principles contained in the Recommendation. Member States were requested to report to the Secretary General at the end of three years (1968) and thereafter at intervals of five years on the law and practice with regard to the matters dealt with in the Recommendation, showing the extent to which effect had been given to its provisions and such modifications as had been found necessary in adopting or applying it. The Commission on the Status of Women was asked to examine the information received and to report to ECOSOC with any recommendations it found necessary.

Only one set of reports was submitted to the Commission under the terms of the Recommendation. Thereafter the reporting procedure was subsumed under the reporting procedures relating to the Declaration on the Elimination of Discrimination Against Women. At the twenty second session of the Commission (1969) the Secretary General submitted a report based on replies from 56 States relating to their law and practice and from 48 States on the measures which they had taken to bring the Recommendation before the competent national authorities.<sup>25</sup>

The report presented under the Recommendation showed a great divergence in the laws and practices of States in relation to marriage laws. Many of these laws are based on traditional and religious customs and may even vary within States. Often the civil law of the country provides that marriage may take place under the laws of the different religious groups and requires only registration in a civil register to take effect. It was obvious that many States did not regard a lower minimum age for marriage for men and women as being discriminatory against women, even when the age for marriage was stated to be as low as 14 for girls. Several States did not consider that arranged marriages violated the principle of "free and full consent". Some states reported that paternal consent was required for the marriage of a daughter whatever her age.

It is clear from these reports that there are serious divergencies as to the interpretation of the Recommendation. It is also clear that there is no true agreement between countries as to the position of women in family law. In the report several States admitted to discriminatory practices, such as those stated above, but only six said that they were considering bringing their legislation into line with the Recommendation. In the field of family law States seem to become more intransigent in the wish to retain their own practices which are very often rooted in the cultural and religious beliefs of that society.<sup>26</sup>

It is not possible to make any real comment on this reporting procedure except to state that the number of States which did report was low (56 States out of a possible 126). One possible conclusion which could be drawn from the Secretary General's report is that the Commission should concentrate its energies on areas where there is (a) the greatest

discrimination against women and, (b) the greatest opposition to change on the part of Member States. The reports on the Recommendation brought to light deep differences of approach to the question of the status of women in the family. This might be one area where the Commission could work out international standards acceptable to more States than is presently the case.

#### Implementation of the Declaration on the Elimination of Discrimination Against Women

The reporting procedure for the Declaration was laid down by ECOSOC in 1968. Resolution 1325<sup>27</sup>

1. [Requests] the Secretary General and the specialised agencies to take steps to ensure the immediate circulation of the text ... through their respective services.
2. Invites Member States, competent national organisations and non-governmental organisations to take all measures for the recognition, in law and in fact, of the principles contained in the Declaration, and to this end:
  - (a) to publicize the text of the Declaration .....
  - (b) to undertake studies on the rapid evolution in the traditional roles of men and women with regard to their participation in the life of the family and society as a whole;
  - (c) To encourage, within the entire country, programmes designed to give effect to the provisions of the Declaration.
3. Invites the specialised agencies to undertake and continue further studies in the changing roles of men and women in a changing world;
4. Invites the full participation of international non-governmental organisations in the activities for publishing the Declaration and in the implementation of the principles contained therein;
5. Invites the Governments of Member States to consider the possibility of revising national legislation in the light of the principles of the Declaration;
6. Requests Member States, the specialised agencies and non-governmental organisations concerned to inform the Secretary General of the publicity given to the Declaration and action taken by them in compliance with the principles of the Declaration;
7. Requests the Secretary General to submit a report on information received on the Declaration, for the consideration of the Commission on the Status of Women at its twenty second session and subsequent sessions.

This request for information was somewhat innovatory as it requested information not only from Member States of the United Nations but also from non-governmental organisations. It was stated above that one of the failings of the reporting procedures under the Convention on the Political Rights of Women was the lack of a critical standpoint stemming from the fact that Governments were not subject to any independent criticism in the reports presented to the United Nations. One way to provide an element of independent criticism would be to give to other organisations or individuals the right to make representations to the United Nations concerning the situation of women. However, the international non-governmental organisations which are represented at the Commission may not be the best organisations for this task. They have extremely limited resources and experience and are largely confined to the countries of Western Europe and America.<sup>28</sup> The standard of reports which might be expected from such organisations would not, therefore, be very high.

The Secretary General presented a report to the Commission at its twenty-second session (1969) which contained a summary of all the information which he had received in response to Resolution 1325.<sup>29</sup> Presenting the report the Secretary General pointed out that the date of adoption of Resolution 1325 had not given much time to Governments, specialised agencies and NGOs to present their reports. Twenty seven Governments, 2 specialised agencies and 10 NGOs had provided information. Several Governments indicated that they had publicised the Declaration by encouraging the mass media to provide coverage of it, by publishing the text in official periodicals and by bringing it to the attention of the competent national authorities. Several NGOs stated that they had used the text as a background discussion paper or had had the text translated into the languages of their national affiliates.

As regards the implementation of the principles of the Declaration, most Governments indicated that their legislation was already in conformity with these principles. Two Governments reported that they had changed their legislation to bring it into line with the Declaration and others stated that revision of legislation was contemplated. Most replies outlined non-legislative measures to ensure the implementation of the principles contained in the Declaration including the establishment of national machinery to review developments or to initiate programmes



to improve the status of women.

The response of the Commission was to express satisfaction with the information from Governments, specialised agencies and NGOs which had submitted reports but to recommend that the Secretary General invite those Governments which had not submitted replies to do so in time for the twenty third session of the Commission.<sup>30</sup> The Commission also requested the Secretary General to devote more resources to publicity for the Declaration.

As from 10 January 1970 (in time for the twenty third session) the Secretary General had received a total of 47 replies from Governments, that is, he had received an additional 20 reports. Two more NGOs had submitted information.<sup>31</sup> The replies did not differ substantially from the first series of reports. Many of them stated that national legislation was in compliance with the principles of the Declaration. Conformity was expressed without reference to statistical or other data. Some States indicated that they were intending to introduce either new legislation or administrative practices to bring them into line with the Declaration.

Two States indicated disagreement with the principles laid down in the Declaration. Malawi reported that "Malawi does not support the Declaration on the Elimination of Discrimination Against Women".<sup>31</sup> The Government of Turkey defended legislation which ensures the subordination of the wife saying

"In every association or company, in every society, a leader is chosen in the interests of orderly procedure. The conjugal community too is a small association and the husband is made head of that community in order that it may function smoothly. "

The reports submitted in this cycle are characterised for the most part by their generality. Several reports give a bare statement that the situation prevailing in that State corresponds with the principles of the Declaration. Few reports give statistical data and those which do so are not sufficient for a thorough comparative analysis. This is partly due to the fact that Governments were not responding to specific questions and the content of the reports is therefore variable.

At the twenty fourth session in 1972 the Commission was presented with a report on the implementation of the Declaration based on replies from 39 Governments, 3 specialised agencies and 20 NGOs.<sup>32</sup> The report

summarised the replies and the Secretary General added that

"It may be noted that the nature of the information received did not lend itself to comparative analysis."

The report also suggested that the Commission might like to space out its requests for information as the Government of Italy had pointed out in its report that

"since the subject does not lend itself to annual examination unless the information requested is limited to recent developments, such as the adoption of new legislation, or the initiation of new programmes."

The Secretary General also suggested that the Commission might like to offer guidelines regarding the type of information required.

The Secretary General made the following points as regards the replies received:

- (1) Many replies were of a general character and usually indicated formal compliance. Often such statements were not supported by information on specific topics, although in some reports certain topics were singled out for information - "few replies were specific as well as comprehensive".<sup>33</sup>
- (2) Some replies indicated that discrimination still existed, particularly in the field of family law where<sup>34</sup>  
from the information received, a picture emerges which is not only incomplete and fragmentary but which shows that compliance in law with the principles set forth in article 6 of the Declaration (i.e. those relating to family law) is far from being achieved in the international community.
- (3) Those figures which were furnished did not allow for a comparative analysis of the progress achieved although they helped to draw general conclusions. Generally replies indicated that progress had been achieved although it was obvious that the de facto situation was not satisfactory. It was impossible, from the replies received, to "evaluate the extent to which the discrepancy has been bridged in recent years".<sup>35</sup>

Responses in the Commission to this report were mixed. Several representatives expressed concern over the small number of replies received and that the information did not lend itself to comparative analysis.<sup>36</sup> Others noted that the small number of replies was not due to lack of interest but was due to the difficulties experienced by States, and particularly the developing States, to respond to the many requests

for information from the United Nations.

At this same session the Secretary General presented a report on the review of the work programme of the Commission.<sup>37</sup> The Secretary General proposed that reports on the Implementation of the Declaration be spaced out

"so that at one session, they may deal with the civil and political rights set forth in the Declaration, and at the following session, with the economic, social and cultural rights. Both series may deal, as at present, with the measures taken to comply with the principles of the Declaration, and with the publicity given to it."

The Secretary General suggested that such a staggering of the reports would ease the burden on Governments and encourage them to report in greater detail on recent changes in legislation. Also, as the time span of the reports would be four years under the proposed system, it would allow more time for significant changes in law and practice to occur. The staggering of reports would also give more opportunity to examine the reports of Governments in greater detail than was then possible.

These suggestions were adopted by the Commission and by ECOSOC which, in Resolution 1677 (1972)<sup>38</sup> instituted a four year cycle of reports wherein Member States are invited to furnish the Commission every two years with information relating to the publicity given to the Declaration. Information relating to the substantive provisions is invited alternately (i.e. every four years) on civil and political rights, and on economic, social and cultural rights. The Council went on to recommend in Resolution 1677 that the reports should primarily describe

"developments which have taken place under the period under review with particular emphasis on  
(a) the situation existing in law (the enactment and/or repeal of relevant constitutional provisions, laws and regulations),  
(b) the situation existing in fact (supplemented, where appropriate, with statistical data and percentages),  
(c) the discrepancies, if any, between the situation existing in law and the situation in fact (including any obstacles which prevent the full implementation of the principles of the Declaration and any general trends which might be noted."

The Commission added that Member States, specialised agencies and NGOs should submit information "as far as possible on the basis of guidelines to be prepared and circulated by the Secretary General".<sup>39</sup>

The Secretary General did circulate guidelines which took the form of general headings and the first reports under the new system for the period June 1971 to June 1973 were submitted for consideration by the Commission at its twenty fifth session in 1974.<sup>40</sup> Replies had been received from 31 Governments and 14 NGOs on the political and civil rights contained in the Declaration. The majority of replies followed the guidelines offered by the Secretary General, but few Governments took into account the Council's request that they should point out the discrepancies between law and fact and note what obstacles existed in bridging the gap between law and fact.

The reports again failed to provide statistical data or analysis of the facts given. Added to this the reports often did not deal with the period under review and repeated information previously given. The input of the NGOs was helpful in that they provided some information relating to the practical difficulties in implementing the principles contained in the Declaration. However, the information was not extensive enough to provide a full analysis of the situation of women in the world.

Following the failure of Governments to supply sufficient information on the political and civil rights of women, ECOSOC urged all Governments, specialised agencies and NGOs which had not done so to furnish the Secretary General with information relating to these rights.<sup>41</sup> Sixteen more Governments replied in time for the twenty sixth session and their reports were similar in content to the reports previously presented. In fairness to the Governments concerned, however, the Secretary General invited them to furnish information on the civil and political rights of women in a note verbale dated 10 June, 1979, and it would have been difficult for them to reply in time for the twenty sixth session which was held in September, 1976. However, due to lack of time that the twenty sixth session these reports were not considered.

In the reporting system set up under the Declaration several problems arose which are similar to those experienced by the Commission under the Convention on the Political Rights of Women.

1. Reports are not mandatory and so the number of replies remain small. In tabular form the figures can be presented in the following way:



Request for informationPossible RepliesActual Replies

## Resolution 1325 (1968)

1969	126 <sup>a</sup>	27
1970	127	20
1972	132	39

## Resolution 1677 (1972)

1974	138	31
1976	147	16

a. Figures in this column represent the membership of the United Nations at that date.

2. Until 1973 Governments were not issued with guidelines as to the nature of the information required of them. The reports differed in quality and in content as Governments reported on the aspects which they considered important.

3. Insufficient statistical and other data was provided so that the de facto situation of women did not become clear in the reports. Where generalised statements could be made it became clear, as the Secretary General pointed out, that the situation of women in practical terms did not conform to the legal situation. This was particularly true of the situation of women in the family but it was also true of women working in the public sector where women are grossly under represented and often under paid.

4. Governments did not provide, on the whole, information on steps which they envisaged taking to improve the status of women. Some Governments indicated that they were considering legislative changes and more indicated that they would set up national machinery but many did not provide any information of this sort. Whether this means that States do not intend to take any action is impossible to say.

5. States which had the best records of improving women's status tended to provide the most detailed reports. The Soviet bloc countries, for example, reported often and in great detail on the changes which had been carried out to improve the status of women.

6. Reports can be used to gloss over situations which are unsatisfactory. By providing details of legislative reforms without any description of the situation in practice States can give a false impression about the status of women in that society. Reports should provide statistical and other data such as court decisions, administrative practices, positive discrimination policies and so on to provide a more balanced picture.



7. The Commission itself has failed to develop any method of assessing the information which is presented. Neither has it developed a system of appraising the practice of States which do not comply with the standards laid down in the Commission. Malawi's statement quoted above that she did not accept the Declaration was not challenged in the Commission. An elaborate reporting system is useless without such a system of assessment and appraisal.

Two positive comments can be made, however, with regard to this reporting system which show an advance on the system under the Convention on Political Rights of Women. Firstly, when the Secretary General laid down guidelines for States as to the type of information required there was evidence to show that Governments followed these guidelines and attempted to provide the information requested. Here the Commission might care to refine this practice even further so that the reports may, in time, become more uniform in content and quality. Secondly, the reports presented to the NGOs provided some useful information on the de facto situation of women. Again the Commission might attempt to widen its net further in the sources of information in the reports. Trades Unions from various countries could provide valuable materials (civil service unions would have information relating to the employment of women in the public sector). Similarly the Commission might request information from the various women's commissions which have been set up in many States in the past 15 years or so. Information thus provided would help to create a more balanced picture of the status of women in the Member States of the United Nations.

The 1980 International Convention on the Elimination of All Forms of Discrimination Against Women.

The 1980 Convention establishes a Committee on the Elimination of Discrimination Against Women which is to consider reports from the States Parties to the Convention.<sup>42</sup> No special guidelines are proposed as to the contents of these reports which are to be presented by the States Parties within one year of the Convention coming into force for that State and thereafter within four years or whenever the Committee requests information.

## Periodic Reports on Human Rights

The system of periodic reports on human rights was first established in 1956 when ECOSOC requested

"States members of the United Nations and the specialised agencies to transmit to the Secretary General, every three years, a report describing developments and the progress achieved during the preceding three years in the field of human rights, and measures taken to safeguard human liberty in their metropolitan area and Non-Self Governing Territories and Trust Territories; the reports to deal with the rights enumerated in the Universal Declaration of Human Rights and with the rights of people to self determination, and to supplement the information furnished for publication in the Year Book of Human Rights, and to make reference to any relevant parts of reports submitted to another organ of the United Nations or to a specialised agency."<sup>43</sup>

ECOSOC further requested that States and specialised agencies include in their reports information on a right or group of rights which might be selected by the Commission on Human Rights. The Secretary General was invited to prepare guidelines for Governments "on a topical basis" and to prepare a summary for the Commission on Human Rights. The specialised agencies and NGOs were invited to cooperate in undertaking any special study which the Commission on Human Rights might suggest. The first of these reports were to be submitted at the fourteenth session of the Commission on Human Rights and were to cover the years 1954, 1955 and 1956 and a special study was also to be made on "the rights of everyone to be free from arbitrary arrest, detention and exile".

Six years later, ECOSOC, believing "that a greater number of reports are required and more information should be given therein concerning the problems or difficulties which have or may be encountered", urged all States Members to submit reports on developments in human rights.<sup>44</sup> These reports were to be submitted no later than 30 June immediately following the period for which the reports were to be made. Again ECOSOC asked Governments to concentrate on

"reporting developments of particular significance and explaining why they were significant, rather than attempting to report on developments relating to all the rights enumerated in the Universal Declarations."<sup>45</sup>

Furthermore ECOSOC invited the NGOs to submit "comments and observations of an objective character" on the situation in the field of human rights.

Finally ECOSOC requested the Secretary General

"to transmit hereafter the summaries of the triennial reports to the Commission on the Status of Women for its comments." <sup>46</sup>

The first in this series of reports was accordingly submitted to the Commission on the Status of Women at its sixteenth session in 1962. The reaction in the Commission to the reports was mixed. <sup>47</sup> Some representatives stated that some progress had been achieved whilst others stated that progress in the field of human rights was too slow. The representative of the Soviet Union expressed her dislike for the system of periodic reports by saying that she thought that the system could well be abolished when the proposed international Covenants came into effect. <sup>48</sup> The representative of France, in reply, hoped that the two systems (i.e. the reporting systems under the Covenants and the periodic reports) could both continue.

The Commission established a working group to discuss the reports, which concluded that little information was provided on the Implementation of Article 16 of the Declaration on Human Rights, which related to the status of women in the family, nor was there much information on the implementation of Article 21 relating to women in public life, nor on article 23 on the right of women to work, nor on article 26 on the right of women to education. <sup>49</sup> The Commission, accepting the report of the working group, adopted a resolution in which the Commission <sup>50</sup>

- " 2. Emphasises the usefulness of these reports ...
4. Considers, however, that the information supplied by Governments in these matters affecting the status of women could be more comprehensive.
5. Notes with concern that, while a few countries note significant progress in the implementation of article 16 of the Universal Declaration, the information concerning the status of women in family law is especially limited, and indicates little advance in this field.
6. Notes that the same observations apply to the information concerning article 21, 23 and 26.
7. Expresses the hope that in the future series of reports more information will be supplied by Governments on the application of the provision in article 2 of the Universal Declaration that everyone is entitled to all the rights set forth in the Declaration without distinction of sex."

At its eighteenth session in 1965 the Commission had before it a summary of the replies received and in the debate on the reports one

representative expressed satisfaction that more than half the Members of the United Nations had submitted reports.<sup>51</sup> Others said that the reports showed the impact of the work of the United Nations in the human rights field. It appeared from the reports, they added, that action with regard to the abolition of the bride-price and other reforms in family law "were due to an appreciable extent to the relentless efforts of the Commission on the Status of Women".<sup>52</sup> In the same year (1965) ECOSOC established a reporting system based on a continuing three year cycle, in the belief that such a reporting system

"is not only a source of information, but also a valuable incentive to Governments efforts to protect human rights and fundamental freedoms .... "<sup>53</sup>

In the first year reports were to be submitted on civil and political rights, in the second on economic, social and cultural rights, and in the third on the freedom of information. The Secretary General was requested to forward the information received to the Commission on the Status of Women which was requested

"to inform the Commission on Human Rights of its comments on the materials it received under the terms of this resolution, and of any recommendations it may wish to make. "<sup>54</sup>

The first in this series of reports was presented to the Commission at its nineteenth session in 1966.<sup>55</sup> The value of the system of reports as an incentive to Governments to increase their efforts in promoting human rights was noted. Some representatives welcomed the fact that the Commission was given the opportunity to examine and comment on the Reports but others were more sceptical;

"They argued that the Commission on the Status of Women, although profiting from the information contained in the periodic reports, might find it difficult to read and digest such a potentially large mass of documentation each year. In their view, the periodic reports were too general and covered too wide a field to enable the Commission to take adequate action on them. "<sup>56</sup>

This same question arose at the following session of the Commission in 1967 when a resolution was adopted emphasising the value of the reporting system but which added, however,



- " The Commission considers that it would be greatly assisted in its future assessment of progress and problems in the development of women's rights if:
- (a) Reports by Governments included more information on progress made in women's rights during the period under review together with reference to special difficulties encountered and to measures taken or under consideration to give practical effect to constitutional or legislative provisions:
  - (b) Reports from non-governmental organisations contained more information relating to women's rights. "57

The Commission on Human Rights considered these proposals in its preparation of guidelines for Governments and suggested that reports should concentrate

- "on material of an objective character revealing characteristics such as the following:
- (a) the influence on Member States of United Nations instruments which contain principles and norms for the protection of human rights and fundamental freedoms and, in particular, measures adopted to implement such instruments;
  - (b) the common interest of a number of States in particular aspects of the rights under consideration;
  - (c) experience of difficulties in the field of human rights which may be of interest to other States;
  - (d) new developments or methods which may be helpful in overcoming such difficulties;
  - (e) the participation of increasing numbers of the population in the enjoyment of human rights. "58

At its twenty first session in 1968 the Commission had before it periodic reports on freedom of information as well as reports on political and civil rights, and economic, social and cultural rights which had not been received in time for the previous session.<sup>59</sup> Faced with this overwhelming mass of information, much of which did not relate to the status of women, the Commission could do little other than to outline the headings which the Secretary General might use to prepare the next series of reports on civil and political rights.

The debate given over to the periodic reports at the following session in 1969 was equally cursory.<sup>60</sup> One representative states that the reports were a valuable source of information but expressed the regret "at the inadequate coverage given to the civil and political rights of women in the periodic reports."<sup>61</sup>

Meanwhile, also in 1969, ECOSOC requested the Commission on Human Rights to review and consolidate the types of information being sought from Governments in the field of human rights.<sup>62</sup> This request led to the



adoption of Resolution 1596<sup>63</sup> which spaced out the requests for information into a continuing six year cycle.

However, it had been decided at the twenty third session of the Commission on the Status of Women in 1970 to discontinue the debates on the periodic reports and to ask the Secretary General to include in his report on the implementation of the Declaration on the Elimination of Discrimination Against Women any information which might be contained in the periodic reports relating to the status of women.<sup>64</sup> The reason given for this decision was that

"it (the Commission) does not have time for adequate study of the voluminous material received each year, and that relatively little of this material relates specifically to the status of women."

The periodic reports on human rights were not designed to deal specifically with the rights of women and therefore did not prove to be very helpful to the Commission which was left to sift through masses of information in order to glean some salient facts about States' attitudes to their obligations and about the improvement or deterioration of the status of women in the reporting countries. The Commission was unable to cope with such a mass of information and never attempted to evaluate it or to arrive at any but the most general of conclusions.

Reporting Procedures by Governments - Some Observations

From this description of the reporting procedures in the Commission on the Status of Women it is obvious that such procedures as have been established cannot be described as having been a success. The jumble of reporting procedures, established without reference one to another, and without any coordination at all, shows quite clearly that the Commission had no real comprehension of the purpose for which it established these complex procedures.

Supervisory machinery set up by organisations like the Commission serves several purposes. First, it enables the Commission to examine the practice of States in the implementation of the obligations which they have assumed. This was the case with the reporting procedure set up for Contracting Parties to the Convention on the Political Rights of Women. Second, it enables the Commission to estimate the degree of acceptance of the international normative standards which are being developed by it. The Declaration on the Elimination of Discrimination

Against Women contains general statements of principle about the rights which ought to be accorded to women in Member States of the United Nations. States which respond to requests for information on how they are putting these standards into practice indicate the degree of their acceptance of such standards. Third, the responses received enable the Commission to plan its work programme. By understanding where differences exist between States in their appreciation of such concepts as equality within the family, the right to equal pay and so on the Commission can concentrate its efforts in bringing States together in a mutually acceptable way. For an organisation which seeks to develop international legal, not merely moral, standards this is, perhaps the most important function. Such data gathering should enable the Commission to make cross cultural analyses of attitudes, behaviour patterns and societal differences relating to the position of women in society and thereby to appreciate the areas in which international action is feasible.

It is not clear from the past activity of the Commission whether the members of the Commission fully understood the rationale behind the reporting procedures which they established. It is clear that the Commission did not understand the techniques which would have to be developed if a system was to be established which could perform the very complex functions outlined above. These techniques consist in (a) deciding what information is required and for what purposes; (b) providing guide-lines for Member States containing adequate indices whereby States would be enabled to measure such things as the improvement or deterioration of the status of women in society e.g. the extent to which women had attained equal pay, access to education, access to land redistribution schemes and so on. The development of such indices would have to rest on a firm definition of the meaning attached by the Commission to such concepts as the status of women, the role of women in society, the integration of women in the total development effort; (c) developing techniques of cross cultural analysis of the information provided in order to obtain a global picture; and (d) finally, deciding on a course of action, based on such analysis, to improve the status of women.

The reporting procedures outlined above are clearly inadequate for such tasks. The information which is provided is of so general a nature as to be of negligible use to the Commission. It is not merely the fact that so few States consistently respond to requests for information which calls the validity of the exercise into question but the quality of the replies received. The fault here lies both with the Commission and with the States. The Commission itself is inadequate for the task of devising and executing successful reporting procedures. A committee of experts, perhaps consisting of anthropologists and statisticians would be more capable of carrying out the task. They would then be in a position to ask States for the relevant and pertinent information required rather than providing States with the opportunity of making generalised statements which bear little resemblance to reality.

These conclusions run counter to the belief expressed many times in the Commission that the reporting procedures are a worth while exercise. It is difficult to escape the conclusion that such statements contain more an element of hope in what ought to be the worth of a reporting system than an informed appraisal of the systems themselves. It has been said that

"the periodic reports on human rights... contributed nothing to the work of the Commission on Human Rights, yet consumed important resources which could be put to far more effective use..."<sup>65</sup>

The same statement could be made of all the reporting procedures described above in the Commission on the Status of Women.

#### Reports and Studies by the Secretary General

The use of the study or report prepared by the Secretary General's office is one of the most important aspects of the work of the Commission. The report is a means of collating and analysing data on the status of women in the Member States of the United Nations. Basing its programmes on such information enables the Commission to take into account the existence of different legal and social situations which define the position of women. There are, of course, limitations to such studies and the best of them are those which are limited to a discussion of the differing legal regimes throughout the world. It was suggested above that in the reporting procedures established by the Commission, insufficient attention has been paid to the necessity to develop cross

cultural indices by which States can measure their performance. This is also true of the Secretariat. Until recently the Secretariat had not been asked to develop any novel modes of collection of data relating to the status of women and so the reports of the Secretary General have tended to be purely descriptive accounts of the legal and, where figures and data are available, factual situation of women. These reports lack, therefore, any sophisticated analyses of the situation of women within different societies.

Such a failure on the part of the United Nations to develop adequate means by which improvements in the status of women can be measured was recognised at the World Conference for the International Women's Year in 1975. At that Conference a World Plan of Action was adopted which recognised the need for more refined tools of analysis. Part III of the World Plan points to the difficulties which exist in making comparative studies on the status of women. Amongst these problems are: the absence of figures relating to the economic activity of women in national economic statistics. The reason for such an absence is that domestic work and subsistence farming, both of which activities tend to be carried out by females, are not counted as economic indicators; differences exist between national statistical practices in the collection of data; much data is based on erroneous preconceptions as to the role of women, for example, few women are classified as heads of households although they might well be the chief bread-winner. The Plan, therefore, suggests that

"The United Nations system should extend the scope of its standards for data collection, tabulation and analysis ... National statistical offices should adhere to the standards established by the United Nations and its specialised agencies. The United Nations should prepare an inventory of social and economic indicators relevant to the analysis of the status of women ...

This plan gives high priority to cross cultural studies, especially of the causes of discriminatory customs, practices, attitudes and beliefs, which impeded women's contribution to the development process, and of the mechanisms of change. Research oriented towards specific country and regional problems should be made .... "66

If the United Nations does prepare an inventory of social and economic indicators then the value of the reports by the Secretary General will be further enhanced. Such studies as have been made to date have,



nonetheless, provided a valuable basis on which the Commission has been able to work.

Although studies have been made in all areas in which the Commission works, studies in the field of family law are potentially the most useful. Family law is the area where there is least agreement between States as to the adoption of international standards. The family is viewed as one of the most sacrosanct of institutions and attempts to impose changes in this area have met with little success. The Commission has found it difficult to move beyond tentative resolutions of principle in this area.

As early as 1946 ECOSOC requested the Secretary General

"to make arrangements for a complete and detailed study of the legislation concerning the status of women and the practical application of such legislation."<sup>67</sup>

In accordance with this resolution the Secretary General prepared a questionnaire on the legal status and treatment of women, covering nationality, family law and property rights. The information from this questionnaire was presented to the Commission in a series of reports the last of which was presented in 1965. Information for the reports was taken from several sources, including replies from Member States to the questionnaire, documentation provided by participants attending international seminars organised as part of the human rights advisory services, and research by the members of the Secretariat. Such reports in family law covered the following topics: consent to marriage, age of marriage and registration of marriage; annulment and judicial separation; inheritance laws as they affect the status of women; parental rights and duties including guardianship.

At its twenty first session in 1968 the Commission decided to set up a working group to recommend a future programme of work for the Commission in the field of family law. The working group recommended that the Commission study family law in the context of Article 6 of the Declaration on the Elimination of Discrimination Against Women and suggested as topic headings the following five subjects: legal capacity; property rights; domicile and residence; dissolution of marriage and judicial separation (including the question of maintenance obligations); parental rights and duties.<sup>68</sup> The Secretary General was asked to prepare reports under these headings over a period of two or three years. At the same session it was noted that the question of women



in the family was a societal question as well as a private matter and that therefore the Commission should consider these reports in the general context of the status of women in the world. As a result of these decisions the Secretary General undertook, as a long-term project, to compile a series of reports on the status of women in private law, and the first of these reports was presented to the Commission at its twenty fourth session in 1972. The reports so far have included information on the status of the unmarried mother; the relationship between the status of women and family planning; and the legal capacity of women.<sup>69</sup>

It was noted above that the Secretary General was asked at the first session of the Commission to compile an annual report on the political rights of women, including information on constitutions, legislation and electoral reform. These annual reports were to be presented to both the General Assembly and the Commission on the Status of Women and were so presented until 1966 when the annual reports by the Secretary General were incorporated into the reports on the implementation of the principles contained in the Convention on the Political Rights of Women.

The Secretary General was also asked, in 1949, to make a study of the question of the nationality of married women and to report periodically to the Commission on changes in legislation relating to the nationality of married women.<sup>70</sup> These reports were continued annually until the fifteenth session and included information regarding the status of the Convention on the Nationality of Married Women, the number of ratifications and so on. At the fifteenth session (1963) the Secretary General presented his report on nationality laws and thereafter it was relegated in the programme of work for the Commission to the status of a project "for consideration at later sessions of the Commission".<sup>71</sup> Since this time there has been little discussions of the question of nationality and of the Convention in the Commission.

The major drawback to these studies has been the failure by the Secretariat to analyse in depth the particular area under study. This is particularly noticeable in the field of family law where it is clear that the major question before the Commission might reasonably be expected to be in the actual definition of the family. Here the Secretariat takes for granted that the family is some kind of unit of persons

but does not define this unit. Without such a definition it seems difficult to understand how the Commission is likely to enhance the status of women within the family. Such problems may be solved when the United Nations develops the research criteria demanded by the World Plan of Action. Without a proper understanding of the differences which exist within different societies it will continue to prove difficult to reach any true agreement on the reform of family law.

#### Communications

Since its inception the United Nations has received communications from individuals or organisations relating to some aspect of the work of the organisation. In the field of human rights these communications can be of several kinds<sup>72</sup>:

Some communications deal with general principles relating to the work of the United Nations,

Some allege violations of human rights and seek to redress the rights of the victim or victims concerned.

Others request aid from the United Nations in seeking to redress wrongs done against the person complaining, be this against State authorities or any other persons.

In the case of the Commission on the Status of Women communications have been received from individuals or organisations claiming that States have failed to accord to a woman or women the rights to which she/they think they are entitled. Alternatively communications contain information which a person or, more likely, an organisation feels that the Commission might like to take into account in its work. The Commission has failed to develop any effective machinery to deal with such communications.

The Commission first considered the question of communications at its first session. A sub-committee was appointed to deal with those communications which had already been received and to recommend to the Commission how it should deal with future communications. The sub-committee recommended that the Secretary General should compile a confidential list of communications which would be sent to Members of the Commission at least 14 days before the first meeting of the session. The list of communications was to contain an indication of the substance of the communication and the names of the persons submitting them.

Unlike the sub-committee appointed by the Commission on Human Rights, the sub-committee of the Commission on the Status of Women made no statement to the effect that the Commission lacked the authority to take any action in regard to complaints concerning the status of women.<sup>73</sup>

The Economic and Social Council, in Resolution 76,<sup>74</sup> adopted several of the proposals of the Commission on the Status of Women but added that the Commission had "no power to take any action in regard to any complaint relating to the status of women." The resolution requested the Secretary General to compile a confidential list of communications, indicating the substance of each, which would be presented to the Commission, in a private meeting, before each session. The resolution suggested that an ad hoc committee be appointed before each session to review the list of communications and to recommend which be made available in the original to members of the Commission. In practice the sub-committee has always recommended that all communications be made available to the Commission. The Secretary General was further requested to inform all writers of communications that their communications had been received and were being dealt with in accordance with the procedure laid down by the United Nations. Where necessary, the Secretary General was to indicate that the Commission lacked the power to take any action with regard to any complaint relating to the status of women. Finally, the Secretary General was to inform any Member State, not represented at the Commission, of a communication concerning it without divulging the identity of the author.

This resolution was amended in 1950<sup>75</sup> when the Secretary General was requested to compile two separate lists of communications before each session of the Commission. The first, a non-confidential list, was to be distributed to members of the Commission before each session, the second, a confidential list was to be distributed to the members of the Commission in private sessions. In the case of the non-confidential list the names of the authors were to be divulged unless they had indicated that they wished to remain anonymous, and for the purpose of the confidential list the author would remain anonymous unless he/she indicated that they did not object to their names being divulged. Communications addressed to the Commission on the Status of Women were

also to be presented to the Commission on Human Rights and to the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities under the terms of Resolution 728F.<sup>76</sup>

The lists and contents of confidential communications are not available for study and so it is impossible to say to what extent women or women's organisations made use of the communication procedure in order to lay charges against States that they were discriminating unfairly against women. The non-confidential lists are readily available but they do not reveal very much information about the status of women, nor about the work of the Commission. The communications come from individuals or national women's organisations and relate to the activities undertaken by them in the furtherance of human rights. In the main they are trivial in the extreme and it is difficult to see what benefit such communications have been to the Commission.

The existence of the procedure relating to communications came into question at the twenty-fifth session of the Commission in 1974 when it was pointed out that although the procedures for handling communications to the Commission on Human Rights had been significantly expanded by Council Resolution 1503 there had been no mention of communications relating to the status of women. In view of this fact it was proposed that the consideration of communications be deleted from the work programme of the Commission on the grounds that the Council had established a single system to deal with all communications and that, therefore, the Commission on the Status of Women had no power to deal with them.<sup>77</sup> Some members of the Commission opposed this view saying that a final decision should not be made until the Council had debated in full implications of Resolution 1503. It was argued that the decision be delayed until the following session. However, it was decided that all communications should in future be dealt with under the procedure established by Resolution 1503 and that the item be deleted from the Commission's work. ECOSOC requested the Commission to rethink this decision and so the debate continued in 1976. In the course of the debate it was pointed out that communications contained valuable information relating to the status of women and that there was no other body which could deal so sympathetically with communications (other than the Commission itself.) Other members of the Commission argued that the existence of an alternative system of dealing with



communications weakened that set up under Resolution 1503. Further, it was argued, the separation of human rights violations on the basis of sex was unnecessary. This view was, however, rejected and the Commission decided that it would continue to deal with communications under the existing procedure. The resolution in fact explicitly rejects the notion that the existence of separate procedures weakens either.

"The exercise of that competence in regard to communications concerning the status of women does not in any way detract from the effectiveness of separate and distinct United Nations procedures for dealing with communications concerning human rights nor does it prevent the Commission on Human Rights from receiving copies of the same communications to be considered for different purposes. "78

It is difficult to make any objective statement about the value or otherwise of the communications procedure on the Commission on the Status of Women. Without access to the information which the Commission receives in confidence and without access to records of the discussions which take place in camera it is difficult to make any evaluation at all. Opinion is clearly divided within the Commission itself as to the importance of communications to the work of the Commission, and therefore, little insight can be gleaned from the general debates. It was however, true that within the Commission on Human Rights, there was growing dissatisfaction at the lack of powers of the Commission in dealing with allegations that States were denying to individuals the rights provided for in international instruments. This dissatisfaction led to the adoption of Resolution 1503. The Commission on the Status of Women still lacks power to deal in any way with allegations that States are denying to women their rights and, therefore, it may be fair to say that the communications procedure is not effective in supervising the activities of States. Without powers to investigate any communications at all the Commission lacks any influence over Member States who are in a position merely to deny the validity of the communication concerned or to forbid any discussion within the Commission itself.

The Commission, as a supervisory organ, is clumsy and inefficient. It has shown itself unable to devise adequate supervisory machinery to evaluate the behaviour of States in their implementation of international



standards relating to women. This weakness is not unique to the Commission on the Status of Women. The Commission on Human Rights has also proved inadequate to the task of protecting human rights. These organs of the United Nations are only as powerful as the Members of the United Nations are willing to make them and States have been reluctant to surrender meaningful powers of control to international agencies concerned with human rights.

The Commission on the Status of Women has compounded this initial weakness by a lack of foresight and planning in the development of its supervisory activities. Neither the reporting procedures, nor the reports by the Secretary General, nor the communications procedures show any appreciation of the value or the function of supervisory machinery. The work of the Commission in this area is characterised by the proliferation of uncoordinated and unplanned activities leading to confusion within the Commission as to the purposes of such procedures. This weakness may be made worse as the Commission becomes enmeshed in the Review and Appraisal system of the Second Development Decade outlined in an earlier chapter.

The Commission should reorganise its activities in this area as it is likely to be one of the most important functions of the Commission in the future. With the adoption of the proposed Convention on the Elimination of Discrimination Against Women much of the work of the Commission in the elaboration of international standards will be completed. To echo Landy, quoted above, such standards are, in themselves, meaningless to inter-State relations unless the States can see that others are applying these same standards in their domestic policies. In this way the acceptance by the international community of international human rights standards will become a reality and not merely a formality. It is imperative, therefore, that the Commission adopts refined tools whereby the behaviour of States can be monitored and measured. Without this, international standards relating to the rights of women will become a dead-letter.

## CHAPTER FIVE

### NOTES

1. E. A. Landy, The Effectiveness of International Supervision (1966) p.1
2. Ibid., p.2.
3. John P. Humphrey, "The International Law of Human Rights in the Middle Twentieth Century" in M. Bos (ed), The Present State of International Law and Other Essays, (1973).
4. E. Haas, Human Rights and International Action (1970).
5. ECOSOC resolution 504 E (XVI), 1953.
6. U.N.Doc. E/3228.
7. Albania, Bulgaria, Byelorussia Soviet Socialist Republic, Canada, China (Taiwan), Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Finland, France, Greece, Guatamala, Haiti, Hungary, Iceland, Indonesia, Israel, Jordon, Lebanon, Nicaragua, Norway, Pakistan, Phillipines, Poland, Republic of Korea, Romania, Sweden, Thailand, Ukraine, Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.
8. Bulgaria, China, Denmark, Greece, Hungary, Israel, Lebanon, Yugoslavia, U.N.Doc.E/CN.6/360 "Implementation of the Convention on the Political Rights of Women", memorandum by the Secretary General.
9. Each report from individual governments is summarised by the Secretary General and the summary of the report is incorporated into his report. The Commission itself does not see the original reports, merely the report of the Secretary General. In this chapter I have summarised the report of the Secretary General in each case. The original reports from Governments are not available.
10. U.N.Doc.E/CN.6/360 Add.1.
11. U.N.Doc.E/CN.6/360 Add 2.
12. ECOSOC resolution 961B (XXXVI), 1962.
13. U.N.Doc. E/CN.6/430 and Add.1.
14. ECOSOC resolution 120A (VI), 1947.
15. U.N.Doc. E/4025.
16. ECOSOC resolution 1132 (XLI), 1965.
17. U.N.Doc. E/CN.6/470.
18. U.N.Doc. E/CN.6/470 Add.1, Add.2, Add.3 and Add.4.

19. U.N.Doc.E/CN.6/470.
20. U.N.Doc.A/7197.
21. Ibid.
22. U.N.Docs.A/8132 and Add.1.
23. U.N.Doc. E/CN.6/565.
24. Landy, op cit., in note 1; Haas, op. cit. in note 4.
25. U.N.Docs.E/CN.6/510 and Add. 1 and 2.
26. Katherine Piepmeir, Changing Women's Status Through Law (1976) unpublished.
27. ECOSOC resolution 1325 (XLIV), 1968.
28. See below, chapter on NGOs.
29. U.N.Doc. E/CN.6/517.
30. U.N.Doc E/4831.
31. U.N.Docs E/CN.6/531 and Add.1.
32. U.N.Doc E/CN.6/548.
33. Ibid.
34. Ibid.
35. Ibid.
36. U.N.Doc. E/5109.
37. U.N.Doc. E/CN.6/565.
38. ECOSOC resolution 1677 (LII), 1972.
39. Resolution 3 of the Commission on the Status of Women U.N.Doc. E/5109.
40. U.N.Doc. E/CN.6/571.
41. ECOSOC resolution 1852(LVI), 1974.
42. See chapter 8 below.
43. ECOSOC resolution 624B (XXII), 1962.
44. ECOSOC resolution 888 B (XXXIV), 1962.
45. Ibid.

46. Ibid.
47. U.N.Doc. E/3606.
48. The Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights were in preparation in the Human Rights Commission at this time.
49. U.N. Doc. E/3606.
50. Ibid.
51. U.N.Doc. E/4025.
52. Ibid.
53. ECOSOC resolution 1074 (XLI), 1965.
54. Ibid.
55. U.N.Doc. E/4175.
56. Ibid.
57. U.N.Doc. E/4316.
58. Report of the Commission on Human Rights, twenty third session, 1967. Resolution 16(XXIII).
59. U.N.Doc. E/4472.
60. U.N.Doc. E/4619.
61. Ibid.
62. ECOSOC resolution 1458 (XLVII), 1969.
63. ECOSOC resolution 1596(L), 1972.
64. U.N.Doc. E/4831.
65. Statement by the representative of Malta at the Enlarged Committee for Programme and Coordination quoted in Moses Moskovitz, International Concern With Human Rights (1974), p.178.
66. U.N.Doc. E/Conf.66/34 p.32.
67. ECOSOC resolution 11(II), 1946.
68. U.N.Doc. E/4472.
69. On the basis of the reports on family law the Commission recommended a series of measures which could be taken to enhance the status of women in the family. See U.N.Doc. E/CN.6/492 "The Status of Women in Private Law".
70. U.N.Doc. E/1316.

71. U.N. Doc. E/3464.
72. Louis B. Sohn and Thomas Buergenthal, International Protection of Human Rights, (1973) p.750. The authors quote a report by the Secretary General on the situation with regard to communications of May, 1949.
73. Ibid. p.746 for a description of how the Commission on Human Rights handled the question of communications.
74. ECOSOC resolution 76(V), 1947.
75. ECOSOC resolution 304 (XI), 1950.
76. ECOSOC resolution 728 F (XXVIII), 1953.
77. There has been some progress in the handling of communications in the Commission on Human Rights but this development has not been matched in the Commission on the Status of Women. Two Resolutions of ECOSOC set out the new procedure for handling communications. Resolution 1235(XLII) authorises the Commission on Human Rights to make a study of situations which reveal a consistent pattern of violations of human rights. Resolution 1503(XLVIII) sets out the procedure to be followed by the Commission. According to this resolution, the Sub-Committee on the Prevention of Discrimination and the Protection of Minorities appoints a working group each year to examine all the communications received each year and to determine which complaints reliably appear to show "a consistent pattern of gross and attested violations of human rights" in order to bring them to the attention of the full Sub-Commission. The Sub-Commission is then empowered to decide if particular situations should be brought to the attention of the Commission as appearing to show a pattern of gross violations. Finally, the Commission either initiates a "thorough study" of the situation, or establishes an ad hoc committee to investigate the situation provided that the State concerned agrees to such an investigation.
78. U.N.Doc.E/5909.



C H A P T E R   S I X

DECISION   MAKING   IN   THE   COMMISSION

## CHAPTER SIX

### DECISION MAKING IN THE COMMISSION

Interest in decision making theory is a post Second World War phenomenon.<sup>1</sup> From being of minimal interest in 1945, decision making theory now occupies a central place in political science and in the sociology of organisations. The first theorists were primarily concerned with managerial and administrative decision making and were motivated not merely by the desire to describe the process but to provide normative standards for the use of the practitioner. It was said that "the goal (of decision making theory) is, after all, to devise tools that will help management make better decisions."<sup>2</sup> These models provided, therefore, a way of looking at how decisions are actually made and also a guide to the optimal way of arriving at a decision. Herbert Simon was one of the first theorists to provide a model for decision making in his Administrative Behaviour in 1945.<sup>3</sup> His approach, the "Behaviour Alternative Model", is an ends-means approach to decision making in which the administrator

"ought ideally to examine all possible courses of action open to him, trace through the consequences of each alternative course, and then separately evaluate the benefits and losses of each alternative. He should then choose the course of action which is expected to provide the greatest net satisfaction."<sup>4</sup>

This model, which is also termed the classical theory, or the rational comprehensive model, has been subject to much criticism.<sup>5</sup> Etzioni<sup>6</sup> criticises the model on the grounds that "decision makers have neither the assets nor the time to collect the information required for choice." He also points out that in governmental or administrative situations there may be no specific, agreed upon values by which the administrator may posit his goal in a given situation. The administrator is also not in a position to foresee the possible outcomes of the range of choices with which he is faced.

In rejecting this model as suitable for application to foreign policy decision making, Allison<sup>7</sup> points out that the rational actor model oversimplifies the nature of government. The foreign policy maker is not "one calculating decision maker but is, rather, a conglomerate of large organisations and political actors."

Critics of Simon's model have sought to improve on it and to establish a model which they see as more realistic and less of a description of the optimal way in which decisions ought to be made. Charles Lindblom describes his own model as "disjointed incrementalism".<sup>8</sup> He suggests that policy decisions are arrived at in a series of small steps, each building on previous decisions. Policy is, therefore, built up on the experience of past policy and differs only slightly from what has gone before. This is policy making "by successive limited comparisons." Good decisions are those which command the support of various policy analysts. Lindblom sees this model as approximating closely to the situation as it exists in policy decisions in pluralistic, democratic society, where there is no universal assumption as to the correct overall goal which is the ultimate aim of policy and where competing interest groups press their claims. This model is criticised for its lack of universality. Etzioni<sup>9</sup> explains that Lindblom's model rejects any notion that there can exist a central institution with powers to define the goals of society and so policies become, "the outcome of a give-and-take among numerous societal 'partisans'". Etzioni states that this should not be the desired approach to decision making as decisions would reflect only the interests of the most powerful. Building policy on past experiences, is, furthermore, anti-innovatory and neglects societal innovations. He also points out that Lindblom's model does not apply to fundamental decisions - i.e. those decisions which fundamentally affect the way a society views its goal. He cites the declaration of war as an example. Mobilization for war produces a host of decisions in every aspect of policy and challenges all the assumptions of the past.

Following these early attempts at model making, decision making analysis has expanded in several directions. Price<sup>10</sup> identifies seven separate "dissections" of the decision making process and offers one of his own. He begins by explaining that the decision making approach

"maintains that there are those who hold formal or informal positions of power and authority to make decisions for certain events. These decisionmakers can be located within a bureaucratic or administrative framework that provides them with information and will

implement their decisions. In dealing with decision making situations, these persons will draw on a memory of past events and will frame their behaviour upon expectations of the future. As members of a given society they are subject to possible pressures arising from that society. At a given moment in time, these decision makers will be made aware of a particular situation for which they will consider changing the policy or type of behaviour that has been practised. This situation may not be the only one which has been called to their attention at that moment. From beginning to end, a chronological process is taking place: the situation occurs; information about the situation is passed to the decision makers by the bureaucracy; possible behaviours relative to the situation are considered; a decision is made either to change behaviour or stay with previous behaviour; the decision is then implemented by the bureaucracy; and a new situation has been created. The result is a decision that either changes or attempts to maintain the political environment."

Price enumerates several possible approaches to research in decision making:-

1. Focus on decision makers; (a) one approach analyses the character dispositions of the decision maker in order to predict their behaviour in a future circumstance, (b) a second approach analyses the effect of memory on behaviour. A decision maker has often already acquired a certain amount of information about a situation and about the actors with whom he is dealing. Where such information is favourable it can be expected that a decision will reflect this attitude and when the information is negative a similar prediction can be made.
2. Focus on bureaucratic procedures and internal organisational politics. Allison<sup>11</sup> develops models of decisions which do not focus on individual decision makers but which seek to place decision makers in the context of the web of relationships in which they find themselves. Members of the bureaucracy or organisation act on each other and bring different analyses to a situation for different reasons. In the case of members of the bureaucracy choice of policy decisions may be based on the need to legitimate the functions of the bureaucracy rather than on the needs of the situation.
3. Focus on the situation. The type of situation itself has a bearing on the decisions taken about it. Three aspects of a situation have been singled out; degree of threat, amount of expectation and length of decision time. These three aspects in turn determine the type of

decision that will emerge.

4. Focus on the nature of the decision. This aspect is related to the discussion of Lindblom's work discussed above. A decision may be seen as setting a long range policy made with the intention of setting goals or programmes for the future. It may, on the other hand, be seen to be of little importance and non-innovatory, policy by "muddling through" (Lindblom).

5. Focus on rationality. Such an approach is based on an ends means distinction. The determination of goals may be either part of the wider international system, or may be set by individuals exercising choice which may be in conflict with these wide systemic goals. Still further, national goals may be said to have an impact on international politics.

6. Focus on the range of options open to the decision makers. Most of the studies in this sub-set have been limited to the study of one particular situation and the means open to the decision maker in that situation.

7. Price himself develops an analysis in terms of modes of behaviour open to actors in their efforts to control the activities of other actors (in this case nation states). The purpose of the development of this type of analysis is to allow comparisons of different situations using conceptualised types of activity.

Studies in decision making in international organisations have not relied so heavily on theory. Instead they have provided a description of how decisions have come to be made,<sup>12</sup> and then on the effect of those decisions.<sup>13</sup> Much work has been concentrated on the General Assembly where the emphasis has been on voting patterns<sup>14</sup>, particularly bloc voting,<sup>15</sup> rather than on the process leading to the adoption of resolutions.<sup>16</sup> In studies of the Security Council emphasis has been on the use of the veto<sup>17</sup> although the wider political processes in the Council have been described.<sup>18</sup> The binding effects of decisions of international organisations have also been studied,<sup>19</sup> particularly where the nature of those decisions is not clearly defined.<sup>20</sup>

Some studies of decision making in international organisations have been made using a behaviourist approach and describing the process "whereby demands are converted into binding decisions".<sup>21</sup> This type of approach focuses on the various demands arising in a particular situation and on the sources of these demands, be they States, other



organisations or internal pressures. One of the first of such studies, How United Nations Decisions Are Made, by Hadwen and Kaufmann,<sup>22</sup> refers to the processes within the United Nations which have led to the adoption of decisions on economic questions. The authors, both former members of their governments' delegation to the United Nations, state that their purpose in writing the book was to "concentrate on the unwritten procedures rather than on the formal organisational history of the United Nations."<sup>23</sup> Hadwen and Kaufmann describe; how delegations to the United Nations are organised, their powers, functions, degree of independence from their national governments, the initiation of resolutions, voting and tactics (timing of proposals, wording). Emphasis is on informal negotiating processes rather than on the formal procedures laid down in the Charter. The authors also seek to identify certain of the influences which help direct policy within the United Nations. Under this head come things such as "self-interest", "public opinion" and "moral pressures". The study then concentrates on the growth of development programmes in the United Nations and the general political environment in which these decisions relating to development came to be made.

McDougal and Feliciano<sup>24</sup> had, in the previous year, attempted to bring "international relations within the general behavioural tradition".<sup>25</sup> Their approach was to identify the various actors in the international system and the influences at work in defining the values of that system. In 1968 Sharp's Decision making in the Economic and Social Council<sup>26</sup> was a further attempt to apply a behaviourist approach to the study of decisions within a United Nations organ. His approach was similar to that of Hadwen and Kaufmann in that he stressed the importance of describing the processes by which decisions came to be made. Sharp identified the decision makers as representatives of governments and described a typical composition of a delegation. He showed how items came to be chosen for the agenda, how office bearers came to be elected and how resolutions took place, stressing the importance of prior consultation in matters of importance. Sharp also drew attention to the role of informal regional groupings and the role of the staff, the permanent secretariat. A description of these latter groups was considered important as their influence was not clearly reflected in the formal arrangements of ECOSOC.

The most comprehensive study of decision making using a behaviourist approach is Cox and Jacobson's Anatomy of Influence in 1973.<sup>27</sup> This is a comparative study of decision making in international organisations. Each organisation is analysed in terms of its formal powers and functions. The actors in the decision making process are identified as are their sources of influence and the formal and informal structures in the organisation which might influence the adoption of a decision in a particular way, such as unanimity, coalitions, polarizations or alliances. "Influence" is defined in terms of ability to modify one actors behaviour by another actor in support of a policy. The "exercise of influence is viewed in terms of initiation, vetoing, brokerage and controlling, the latter concept referring to "weighty latent influence and anticipation reaction by others".<sup>28</sup> For each type of decision (and seven different types are identified) the exercise of influence will vary due to such factors as the importance of the decision to the actor, the general situation of the actor vis-a-vis others and so on. The process of decision making itself, "the modes of interaction", is divided into a two-fold classification. The first category is defined as analytical and is described as a process of settling differences by

"intellectual processes; facts are examined and rational techniques of analysis applied to them. Usually this mode is employed when the parties agree fundamentally about values and about the principles and criteria for decision. This is the mode of decision making used in a court of law or in a body of experts." <sup>29</sup>

The second mode of interaction is termed bargaining where decisions are reached on the basis of a compromise rather than on the basis of rational analysis. This is the most likely process where there are major conflicts of interest.

The value of this approach to decision making lies in the clarification of the types of issues which are important within a particular organisation and how the issues come to be resolved. Such a clarification is not achieved by the mere listing of the activities of the organisation, nor by an elaboration of the rules of procedures as this fails to explain what goes on in an organisation and may, indeed, be misleading.

This chapter will focus on decision making in the Commission on the Status of Women. It draws on several of the theoretical models

outlined above but it remains within the behaviourist tradition in order to explain how the Commission arrives at decisions. It is submitted that the rational actor model is the least valid model for an international organisation as there are too many factors working within the organisation which cannot be analysed from an ends means point of view. The rational actor model ignores the very important diplomatic tactics of compromise and bargaining which are essential tools of international relations. Of more significance to a study of the Commission are the approaches which identify the influential actors in the process of decision, the governments represented and their representatives, the bureaucracy of the United Nations, or non-governmental organisations. This chapter will, therefore, first describe the actors within the Commission and explain the formal and informal framework within which they work. It will go on to describe the process by which decisions are made and it will become apparent that the simple formula of one State one vote does not correspond to the rather more complex way in which decisions are made. The Chapter will then go on to describe the kinds of decision made by the Commission.

The Chapter is limited in that for all sessions of the Commission except the twenty-sixth, information has had to be taken from the reports of the Commission and its summary records. These reports do not give a clear picture of how decisions come to be made, they merely record the outcome of the process. Where votes or explanation of votes are given then it is possible to estimate the degree to which real agreement was reached, but, in the main, information about the actual process is lacking. For this reason and for the reason that there is no evidence to show that the twenty-sixth session was atypical the value of the discussion is diminished. However, it would be impossible to give a description of the decision making processes which could be seen to be accurate for all sessions and all decisions. The information is too limited and no records exist which would provide the data necessary. The following description does not claim, therefore, validity for all the sessions of the Commission. Indeed, there are strong arguments to adduce to show that over time the Commission has changed its

working methods in certain respects. Perhaps the most important of these factors is that discussed above in the discussions of the Commission within the United Nations system. ECOSOC and the General Assembly have often sought to influence the Commission to adopt a more rational approach to its work, urging the Commission to plan its work load and to organise its work into projects of high and low priority. These influences have been at work since the 1950's and must have led to changes in the processes by which the Commission arrives at decisions. Similarly changes in the composition of the Commission can be said to have affected the types of decision which have emerged from it and may also have affected the way in which decisions are made. One result of the enlargement of the Commission has been the development of regional groupings and negotiating and bargaining partnerships. A further factor must be the increasing influence of the permanent secretariat as the members of the secretariat develop skills and expertise in the field of women's rights.

#### Actors and their sources of influence

The Commission is composed of representatives of Member States of the United Nations. Each delegation has one vote and decisions are taken by Members of the Commission. In effect, therefore, decisions are taken by the governments represented at any particular session. Governments instruct their delegates as to policy on particular issues. The extent to which representatives are instructed will vary from State to State and it is impossible to generalize about the amount of initiative left to a delegate. Few delegates make an explicit reference to their government's briefing although at the twenty-sixth session the representative of Pakistan abstained from the vote several times saying that although she was not personally opposed to a proposal she had no authority to commit her government without prior consent.<sup>30</sup> At the same session several other representatives expressed the wish to consult with their governments before making commitments relating to the inclusion of references to the New International Economic Order in the Programme for the Decade for Women.

Patterns of alliances emerged at the twenty-sixth session.

Informal groups of States joined together to press their claims for



the adoption of a particular policy. In the discussion of the establishment of supervisory machinery for the Draft Convention on the Elimination of Discrimination Against Women a clear ideological split emerged between the States of Eastern Europe and the Western bloc. The representative of Belgium proposed that a Committee of Experts, an independent body, be set up within the United Nations to supervise the implementation of the Convention. Belgium was supported by Denmark, United Kingdom, United States, Canada, Greece and Sweden. Certain other delegations opposed the establishment of such a committee on the grounds of expense (India). However, the real opposition to the proposal came from the representatives of the Soviet Union, Byelorussia, Hungary and the German Democratic Republic. The Soviet representative stated that there was no reason to think that a committee of experts would be better able to discharge the task of monitoring the Convention than the Commission itself, which she proposed was the proper body to 31 monitor the Convention. The debate on this question was very long and it became clear that a compromise could not be reached in the plenary session. The question was referred to a working party composed of all the delegates who had made proposals. The working group recommended a compromise based on a proposal by Iran to establish an ad hoc committee which was to meet before each session of the Commission, to be composed of fifteen representatives of the Commission on the Status of Women who were also signatories to the Convention. This group would examine the reports of governments and report to the Commission on its findings. The proposal was eventually adopted by the Commission without a vote although Denmark and the United States expressed their disagreement with it.

A North/South split emerged during the debates on the Programme for the Decade for Women.<sup>32</sup> Disagreement arose as to the inclusion of references to the New International Economic Order in this Programme. On the one hand Mexico (supported by some of the developing countries) favoured the inclusion of such references and the United States and Denmark argued against. It was the delegate of Iran who suggested a compromise formula.

These patterns of alliances correspond to a great extent to the



regional groupings which exist in all the organs of the United Nations. The rise of informal regional groupings can be dated to UNCTAD 1964 with the emergence of the Group of 77.<sup>33</sup> This group brought together the developing countries in an attempt to adopt a common negotiating point and to present a stronger front in the face of opposition from the western States to their demands. Five regional groupings now exist; Asia, Latin America, Africa, Western Europe and the United States, and Eastern Europe. These groups serve a formal function in the Commission in that the positions of office bearer rotate amongst these groups so that each group is represented in some capacity (Chairman, Vice-Chairman (3) and Rapporteur) and each group in turn takes the Chair. Regional groups are also important when working parties are established as care is taken to ensure equitable geographical distribution in such groups. The function of regional groups is also to provide an informal coordinating device between members so that common standpoints can be achieved. The success of these coordinating mechanisms at the twenty-sixth session was shown by the fact that no obvious differences of opinion were visible between members of the various groups. Two or more of the regional groups may, of course, have a common viewpoint on a particular issue. In the North/South split mentioned above the Eastern European group supported the representative of Mexico in her demands. Another function of the regional groups which emerged in the Commission was the function of "broker". The broker in the Commission was the party which could bring together two opposing viewpoints in order to achieve a compromise. In the Commission the Asian group emerged as the one best suited to fulfill the role of broker. Iran, Egypt and India played a leading role in suggesting compromise solutions and working out a formula which was by and large acceptable to all the representatives. There are several reasons why these countries emerged as leaders in this field. To some extent all three countries are non-aligned in the East/West divide, although one country may lean one way rather than another. All three had distinguished and experienced representatives in the Commission. The representative of Egypt, for example, had served on the Commission for thirteen years and tributes were paid to her for her diplomacy in managing difficult

situations. The delegations of Iran and India were similarly prestigious and the delegate of Iran had the added advantage of holding the post of Rapporteur. In the disagreements mentioned above it was Iran which provided a way out for all the States concerned, and throughout the twenty sixth session these three members brought the Commission from disagreement to compromise many times.

The Asian group is perhaps the one best suited to the role of broker and also, perhaps, to the role of initiator. This position was recognised at the twenty-sixth session by the representative of the International Planned Parenthood Federation (IPPF) in seeking support for the inclusion of a reference to family planning in the Draft Convention. The IPPF representative ruled out the possibility of asking any of the Western bloc countries to introduce the item into the debate as she feared that this would raise opposition from the Eastern European countries. She also feared that if the question were raised by a developed country then the developing nations would see this as an attack on them. Instead she preferred to ask a representative from a developing non-aligned country to sponsor the proposal. Several countries including Iran and Pakistan supported the proposal but preferred not to introduce it since their own religious based laws did not provide for the possibility of contraception. The delegate of India was happy to introduce the proposal although there were fears that opposition to India's programme of enforced sterilization would defeat the motion. However, after careful lobbying by the representative of IPPF the motion was introduced by India and adopted unanimously after fifteen States had expressed their support. The Representative of the United States took no part in the debate although she clearly supported the motion and so potential opposition was diverted.

From this description of the decision on family planning a further factor emerges. Although only members of the Commission have the right to vote and, therefore, to take decisions they may be influenced by other participants in the course of debate or by informal meetings during the session. In this case the real initiator and broker was

a member of a non-governmental organisation, the IPPF. IPPF, working as it does to encourage a wide provision of family planning services, had an interest in ensuring the inclusion of a reference to family planning in the Convention. The two representatives of the IPPF drew up the proposal and lobbied several of the delegates. Tactical decisions on when to approach and on the best way to approach delegates had to be carefully made. Much of the informal lobbying was carried out by the representative of IPPF from Lesotho in order to present the proposal as being beneficial to the developing countries as well as to the developed.<sup>34</sup>

Certain NGOs do have the right to introduce topics onto the agenda for debate. However, this power is seldom used as a far more effective way of ensuring support for a proposal is to convince a government delegate of the worth of the proposal and then to allow that delegate to take on the task of steering it through to agreement. NGOs have far more influence in this way than they would have if they attempted to introduce an item without the support of any of the delegates present. The IPPF in the example given above played out this game very well. However, there were certain factors acting in its favour. Firstly, there was broad agreement within the Commission that family planning should be included in the Convention. Family planning has been discussed at length within the Commission and over the past decade or so a broad consensus has emerged on the issue. Secondly, the IPPF itself is a very well respected NGO within the United Nations system. It has widespread support for its activities within the Commission. The representative of Egypt is also Chairman of the Cairo Family Planning Association. The representative of the United Nations Population Fund at the twenty-sixth session was an Iranian and provided an important link with the Iranian delegation ; and several other members of the Commission indicated their support for the activities of the IPPF. All these factors added together show that in certain circumstances NGOs will have sufficient influence to direct the decision making process in their favour. This is obviously not true for them all. Their influence is strongest where the Commission is already moving towards the point of view which they would like to see adopted. It is

doubtful if had this same debate come up ten years earlier, the outcome would have been the same.

A description of the actors in the decision making process would not be complete without some reference to the role of the Secretariat. The Commission is staffed by a small Secretariat, the Division for Equality of Men and Women which is part of the Division for Social and Humanitarian Affairs. The members of the permanent staff are experienced functionaries who have the benefit not only of being involved with the activities of the Commission on the Status of Women but in all the activities of the United Nations relating to the status of women. Members of the secretariat also have the benefit of being permanently active in the international protection and promotion of women's rights rather than being involved in an ad hoc way as are the government delegates. It is they who receive reports from governments, prepare draft reports for the Commission and compile reports of the meetings. Their expert knowledge cannot be paralleled by the limited knowledge and experience of national delegates and therefore the Secretariat is in a strong position to influence the outcome of decisions.

Sharp does not consider that the Secretariat participates actively in the decision making process, although he points out that precise data is hard to acquire. He notes that in relation to ECOSOC

"it would appear that the staff role is at times considerable but not often of significant substantive impact. In addition to various behind-the-scenes consultations with key delegations by top-level staff .... secretariat representatives on occasion prepare the texts of draft resolutions which are received for adoption by the General Assembly following acceptance by ECOSOC. Only rarely, however, would it seem that the secretariat on its own initiative offers positive suggestions for the adjustment of differences on important issues ....

Unless key delegates have a special trust in the (official's) integrity and political judgement, positive initiatives taken by him are not likely to fall on fertile ground. Even so, there is reason to believe that the United Nations Secretariat might take a more active part in decision making than is now the case. By and large its existing role may be characterized by one of *laissez faire*. "35

Sharp suggests that the Secretariat does not often intervene within ECOSOC on "differences on important issues". I would suggest that



the same is true within the Commission on the Status of Women. In the debates described above in which important issues of principle were at stake the members of the Secretariat did not intervene on behalf of any particular group but limited their interventions to answering specific questions. In the debate on the monitoring machinery for the Convention, for example, the Secretariat was asked to provide legal advice on the competence and function of the Commission and on the financial implications of both proposals under discussions, as well as on certain points of clarification. The representative of the Secretariat, Mrs. Bruce, took care to present information in an impartial way so as not to appear to be favouring one group or another. An example may be given.

"69. Mrs. Bokor Szego (Hungary) reminded the Commission that the previous day she had expressed some concern with regard to the draft amendment submitted by Belgium. She had asked the representative of the Secretary-General to consult the Legal Adviser to ascertain whether the establishment of the new body for which that amendment made provision would not constitute a violation of the Commission's terms of reference or lead to an overlapping of competence with the Commission.

70. Mrs. Bruce (Representative of the Secretary-General) replied that she had consulted the Legal Adviser on the subject. He had stated that the establishment of the committee proposed would not constitute a violation of the Commission's terms of reference but could result in duplication between the Commission's work and the work of the proposed committee. It therefore behoved the Commission to take a decision forthwith.

71. Mrs. Nikolaeva (Union of Soviet Socialist Republics) reminded the Commission that article 21 had already been the subject of a lengthy discussion. The information provided by the representative of the Secretary-General showed that the setting up of the committee which was proposed in the Belgian amendment would result in duplication. At the present juncture it was well to remember that recommendations by the General Assembly with a view to avoiding duplication between bodies, which resulted in unnecessary expenditure.

75. Mrs. Bruce (Representative of the Secretary-General) pointed out that she had said that the proposed committee "could" lead to duplication; that was only a possibility and it was a matter for the Commission to decide." 36



However not all the decisions of the Commission are on matters of principle, some are of a more technical nature. In these latter decisions the Secretariat has a much wider part to play simply by providing the services without which the Commission could not function. These services include the analysis of reports from governments, preparing reports for the Commission on questions on which the Commission requires information and by providing advice on procedural matters.

In another context, that of colonialism, Jacobson has written

"Nor would one gain a sense of the importance of the Secretariat in this phase of the United Nations work from reading the Charter. Nevertheless, in routine matters, although not in crises, the Secretariat has been extremely influential. The Secretariat's expert knowledge concerning some of the more technical issues in the colonial field has caused many delegates to rely heavily on it as a source of advice. They have also been willing to allow it considerable discretion in handling day to day colonial issues. Moreover the United Nation's procedures for dealing with such matters have enhanced the Secretariat's influence. Reports have figured prominently in this phase of the United Nation's work. Members of the Secretariat usually draft these reports, and then the delegates amend and approve them. When the pressure of time is great and little national staff assistance is available, as in the case of visiting missions, the power to draft verges on the power to commit. By and large, the Secretariat's influence has benefitted the anti-colonial forces. For one thing, although the Secretariat's knowledge has been available to all, it has been more useful to these delegations, for their national staffs could hardly match those of the colonial powers.(my emphasis). "37

In this description Jacobson brings out two important features of the work of a Secretariat. The first is the expert knowledge of the Secretariat and the second is its function of drafting reports upon which decisions are made. As noted above the Division for Equality of Men and Women is a group of expert international civil servants whose everyday business is the status of women. The Secretariat has access to information from governments, NGOs, experts, and from the rest of the United Nations system - an informational input which could be surpassed only by the most sophisticated of national systems. Many, if not most, representatives at the Commission do not have access to this amount of information, nor do they have the time to prepare and

analyse the information available. Their reliance on the Secretariat must therefore be very heavy as the provider of information on which their decisions are based.

It is possible to illustrate this reliance by examining certain of the decisions taken at the twenty-sixth session and comparing them with the information provided by the Secretariat for consideration by members of the Commission.

Influence of the mass communications media on attitudes towards the roles of women and men in present day society.

The Commission, at its twenty-sixth session had before it a report by the Secretary-General on the influence of the mass communications media on the status of women.<sup>38</sup> The purpose of the report was to "suggest measures to check the dissemination and perpetuation by the mass communications media of the deeply rooted discriminatory attitudes, values and beliefs which considered women inferior to men."<sup>39</sup> The report suggested a number of measures to be taken by Governments, the media and international organisations based on the recommendations of several international meetings and seminars which had been held in the preceeding three years, "with a view to presenting the Commission on the Status of Women with the information it requires in order to make the mass media a positive influence on the formation of new attitudes towards the roles of women in present-day society."<sup>40</sup>

How far these suggestions influenced the Commission in their decisions on the mass media can be seen from an examination of the resolution sponsored by Denmark and Iran on the role of the mass communications media.<sup>41</sup>

The operative paragraphs of the Resolution read as follows

"The Economic and Social Council,

1. Encourages Member States to make representatives of mass media aware of the importance of formulating policies and guidelines for treatment of women in the media to include:

- (a) review their recruitment, training and promotion policies and practices to ensure that there is no discrimination against women, and that they have equal opportunities to advance at all levels of professional, technical, and decision making positions in the mass communications media;
- (b) dissemination of more news about women (particularly about progress made in the legal, social and political fields) in all languages of the country, giving this news the place it deserves in the light of its subject-matter and not placing it all in sections reserved for women;
- (c) portrayal of the roles and achievements of women from all walks of life, especially in the fields of development and social welfare, including women in the rural areas;

2. Recommends that Member States encourage the presentation of programmes and the publication of materials which ensure the elimination of sex-role stereotyping in educational and informational activities and the projection of a positive image of men and women;
3. Requests that Member States take whatever action is necessary to establish and strengthen cooperative systems for schools and libraries in the production and dissemination of education and information materials for use by television, radio, press, mobile units, community centres and other public facilities in urban and rural areas;
4. Recommends that Member States encourage educational institutions and organisations to make greater use of the mass communications media for formal and informal education, literacy programmes, vocational training, civic, cultural and political education, as well as the formation of new attitudes about the role of men and women in society;
5. Requests the United Nations Educational, Scientific and Cultural Organisation, with a view to helping developing countries, to prepare educational films for primary schools and functional literacy which are concerned with the improvement of the image of women and doing away with stereotyped sex roles;
6. Suggests that Member States create committees or councils comprised of men and women in private, governmental and intergovernmental sectors, to advise and meet with policy and decision making staff of the mass communications media, including particularly the field of advertising, for discussions and evaluations of progress toward changing the image and status of women in the media;
7. Encourages governmental and non-governmental organisations, especially in cooperation with those dealing with the mass media, to organize workshops and seminars aimed at creating a greater understanding and public awareness of the potential and actual role of women in their respective societies, and how to utilize the mass media to project positive and more accurate images of women,
8. Decides to appoint a special rapporteur, taking into account the close relationship between the economic and social aspects of development and the necessity of full integration of women in the development process, to prepare a study on the impact of the mass communications media on the changing roles of men and women, including action taken by the public and private sectors of national, regional and international levels, to remove prejudices and sex-role stereotyping, to accelerate the acceptance of women's new and expanded roles in society, and to promote their integration into the development process as equal partners with men. This information is to be drawn inter alia from research studies on this subject to be undertaken by relevant research institutes in seminars to be organised for this purpose, as well as other studies which may be under way.

9. Requests that the Secretary-General submit a progress report together with its findings to the Commission on the Status of Women at its twenty-eighth session;
10. Recommends further that the Ad Hoc Committee include the subject of the influence of the mass communications media on attitudes towards the roles of women and men in present-day society as an agenda item for the 1980 World Conference. "42

Several of these recommendations can be traced directly to the report of the Secretary General.<sup>43</sup> Paragraph 1(a) is based on the measures suggested in the report under the heading Employment of women by the media.

"Measures to be taken by Governments

(d) Laws should be enacted to eliminate discrimination on the basis of sex in employment, in media enterprises. Media representation on official bodies charged with implementation of the World Plan of Action should be ensured.

(e) Equal access to education for boys and girls should be ensured at all levels, and public support provided to professional training for women in communication.

(f) Rising admission quotas for women seeking training in communication should be encouraged."

Paragraph 1(b) is based on the suggestion by the Secretary-General that

"(a) The concept of what is newsworthy should be redefined to include more coverage of women's activities locally, nationally and internationally by carrying and interpreting news in terms of the needs, aspirations and welfare of women. The media should make special, and sustained efforts to seek out news of women.

(b) Issues concerning women should, whenever possible, be treated as regular news rather than items of interest to women only. The elimination of media formats which segregate reporting on issues concerning women from all other news topics should be encouraged. Placement of news should be decided by subject-matter, not by sex."

Paragraph 1 (c) is based on the proposal in the report

"They (the media) should depict the roles and achievements of women from all walks of life throughout history, including women in the rural areas and women of minority groups and should seek to develop in women confidence in themselves and in other women, and a sense of their own value and importance as human beings."

Paragraphs 2 and 3 are based on the following proposals,

"The utilization of the educational potential of broadcasting Literacy, education and vocational training, as well as the encouragement of new attitudes and cultural practices should be effectively supported in short radio and television messages and in radio and television programmes for schools, as a major educational component. This should not be a displacement of other educational means but an additional



communications input of major motivational and informational impact. Governments should take all the necessary steps to use the fullest potential of the media for educational purposes and for the eradication of illiteracy where it exists.

Information research centres should be established by Governments or non-governmental organisations or both together to serve as key repositories and points of two-way communication and exchange of information (news, features) and audio-visual materials (films, recorded radio and television programmes) at the international level, including the storage and re-dissemination of documented experiences of integration of women in development from agencies of the United Nations systems.

Paragraph 7 is based on certain proposals in the report relating to activities to be taken by international organisations, especially,

"Symposia, seminars, workshops or other types of international meetings and briefings should be organised for media authorities, with the participation of Governments, non-governmental organisations, etc. to promote the implementation of the World Plan of Action for women."

It is clear that the decision eventually adopted by the Commission is based largely on the report of the Secretary-General. Paragraphs 4 and 5, although not grounded in a particular wording in the Report are nonetheless in conformity with its spirit. The Commission did not include all the recommendations of the Secretary-General, these were wide and far-ranging and the Commission chose to highlight certain of them, particularly those relating to education. Similarly the Resolution of the Commission contains elements which do not appear in the Report i.e. those relating to the appointment of a special rapporteur and the need for a continuing study by the Secretary-General. However, it is clear that the Commission relied heavily on the expertise of the Secretariat to provide and analyse the relevant information on which their decision was based. The way such information is presented and the content of such a report determine to a large extent the nature of the decision adopted.

A similar analysis can be made of several other decisions taken at the twenty-sixth session which would reinforce the hypothesis submitted by Jacobson that the "power to draft verges on the power to commit". This is particularly true of the Programme for the Decade adopted by the Commission and which is based on several reports by the Secretariat.



A brief summary of the procedure whereby the Commission came to adopt the Programme will illustrate the important role played by the Secretariat in the process of decision.<sup>44</sup> The Commission held a series of general debates at the twenty-sixth session during which reports were presented to the Commission by the Secretary General on the International Women's Year, by the Inter-American Commission on Women, The Arab Commission on the Status of Women, and the regional commissions of ECOSOC and the specialized agencies. The discussion in these debates was far-ranging, covering subjects like the technical assistance programmes of the United Nations, proposals for a mid-Decade review conference on women's rights (1980), illiteracy amongst women, as well as the activities of all the United Nations organisations which were involved in questions relating to women. It was clear that no decision could be reached from such a wide debate and a working party was accordingly set up to elaborate the Programme for the Decade. The group took as its basis the report of the Secretary General on the Programme for the Decade.<sup>45</sup> The group held one meeting and decided to submit all proposals and suggestions for the Programme to the Secretariat and requested the Secretariat to prepare a working paper. This working paper was considered by the full Commission<sup>46</sup> and after some minor amendments the Programme for the Decade was adopted. The procedure of the Commission was to go through the report and take each paragraph, discussing it and, where necessary, amending it to accord with the wishes of all the representatives concerned. However, only minor changes were made, no changes on policy were proposed and there were no amendments which could be said to have altered the import of the Programme.

Decisions on the review and appraisal of progress made under the International Development Strategy were also based on reports of the Secretary General.<sup>47</sup> These were analytical reports based on replies by Governments and by the regional economic commissions. The findings of the Commission were based on these reports and adopted all the conclusions of the Secretariat.<sup>48</sup>

Such a reliance on the expertise of the Secretariat might not be typical of the committees and commissions of the United Nations. It might not, also, be typical of decisions of the Commission on the Status of Women. However, certain factors point to the need for an

increasing reliance by members of the Commission on the permanent staff of the Division for Equality between Men and Women. The first of these factors is the increasing complexity of the working methods of the United Nations as a whole and the Commission in particular. The Commission worked, for a long time, in a somewhat isolated fashion, developing programmes to enhance the status of women and working towards the development of a new international law relating to women's rights. However, since the 1960's the Commission has had a greater role to play in the United Nations system. Its work programmes have become less clear. Its goals are no longer clearly defined. The need to work within the concepts developed elsewhere in the United Nations, and notably within the framework of development has served to disorient the Commission. Added to this the increased work-load resulting from the Declaration of 1975 as the International Year for Women and the years 1976-86 as the Decade for Women has led to a proliferation of activities, some of which are only of tangential interest to the Commission, but others have led to an increased work-load and increased confusion within the Commission. Under these circumstances it is only natural that members of the permanent staff who can see the whole range of United Nations activity relating to women as a whole will acquire far more importance than ordinarily. Furthermore, when technical issues are in question, like the need to draw up a ten year work programme such as the one discussed above then a certain degree of bureaucratic expertise is essential. As has been pointed out several times the Commission is composed of representatives of governments. They come from different walks of life, lawyers, civil servants, doctors. They meet for three weeks every two years. It would be impossible for such a Commission to develop the technical expertise to be able to make long-term planning decisions, to be able to appraise the activities of other organisations of which they are largely ignorant, or to make further suggestions for action when it is unclear what action has already been undertaken. In these circumstances the Secretariat emerges as the most important actor in the decision making process although technically only the Members of the Commission may vote and only they, therefore, may make decisions.

### The Procedure of Decision

According to the rules of procedure of the Commission, each member of the Commission has one vote, and decisions are taken by a majority of members present and voting.<sup>49</sup> Present and voting is defined as meaning those members casting an affirmative or negative vote. Members of the Commission who abstain are not considered as voting.<sup>50</sup> Voting is taken by a show of hands<sup>51</sup> except in the case of elections when a secret ballot is taken.<sup>52</sup> A member may request a roll-call vote<sup>53</sup> which is taken in the English alphabetical order beginning with the State whose name is drawn by lot by the Chairman. Each vote is inserted in the record.<sup>54</sup> An explanation of vote may be given by a member, and is recorded in the record.<sup>55</sup> Parts of proposals may be voted on separately if a member so requests.<sup>56</sup> Amendments to proposals are voted on first<sup>57</sup> and where there are two or more amendments, the one furthest away from the original is voted on first. If an amendment is adopted, the amended proposal is adopted. A motion is considered an amendment if it adds to, deletes from, or revises a proposal. If a vote is equally divided on a matter other than that of an election, the proposal is regarded as rejected.<sup>59</sup>

The emphasis on voting procedures in the rules of the Commission does not mirror practice within it. The place of the vote has lost ground to be replaced by the adoption of proposals by consensus. In this the Commission cannot be considered to be particularly innovatory for it is following a pattern established in many organs of the United Nations. Consensus has been defined as being a collective opinion of a group of persons.<sup>60</sup> Unanimity is not essential<sup>61</sup> and in fact adoption of proposals by consensus may represent more an absence of major disagreement rather than the presence of agreement.<sup>62</sup> The consensus of the group is defined by the Chairman of the organ after hearing all the statements of members of the group and represents as closely as possible the views expressed during the discussion. De Lacharrière suggests that resort to decision by consensus is had when it seems that a decision by vote would take too long or it would be difficult to reach agreement. The practice of the Commission does not necessarily bear out this point. At the twenty-sixth session adoption of decisions by consensus was the preferred form of decision making. The vote was a final resort when a consensus was not possible due to a complete lack of agreement between members or when the discussion of amendments

became too complex to be dealt with quickly. The vote was also taken for closure of debate<sup>63</sup> when the debate seemed to be getting away from the central issue or when it was clear that further debate would not bring agreement any nearer. A vote on a particular proposal was taken when it appeared that there was fundamental disagreement, the vote having the advantage of being capable of expressing an opinion in favour of a proposal and one against. Nonetheless the Chairman endeavoured, for the most part, to obtain maximum agreement for a proposal by allowing the speakers time to state their point of view and to support or reject proposals by other members.

Such an approach may be more useful than the more formalistic voting procedures foreseen by the Rules of Procedure. Wilfred Jenks has described how the vote by consensus has become widespread throughout the United Nations<sup>64</sup> and he welcomes this development as a return to the procedures established by diplomacy as against the parliamentary approaches which characterised the early years of the United Nations. Jenks saw diplomatic bargaining as being, in the long run, more effective than the "unilateral pronunciamento" as the basis for decision then lies in a negotiated agreement and therefore it is more likely to retain support.

Cox and Jacobson explain that decision making by bargaining i.e. by a process characterised by negotiation and compromise is the traditional form of decision making in international organisations.<sup>65</sup> Decision by bargaining is an attempt to reach a compromise agreement by a series of trade offs. The agreement reached might not reflect all points of view, indeed it is likely to reflect only the lowest common interest of the parties concerned but its value is in the give and take approach which allows all the parties concerned to make their positions clear and then to seem to be working towards an agreement.

From the evidence of the twenty sixth session it would be difficult to say that decision making in the Commission is characterised by bargaining. As described above many of the decisions within the Commission are of a technical nature. They may concern the activities of the United Nations, and these kinds of decisions do not leave the Members of the Commission any room to exercise their diplomatic functions.

However certain decisions on points of principle do sometimes need to be taken and then it is possible to see how the sides in the debate negotiate an agreement which is broadly acceptable to all. However this could not always be termed agreement in the proper sense of the word. Often when points of principle arose they led to agreements to disagree rather than a true compromise solution characterised by give and take. Some examples of this approach have already been discussed above e.g. the debates on the New International Economic Order. One very clear example of a "non-agreement" or agreement to disagree arose in the debates on the draft Convention on the Elimination of Discrimination Against Women. Disagreement arose over the inclusion of an article in the Convention which related to protective legislation for married women. The Soviet Union is very much in favour of giving working women certain privileges as a way of recognising the dual function of wife and worker. The United States, on the other hand, wishes to eliminate protective legislation for women as such legislation is contrary to the principle of non-discrimination and is considered to be unhelpful to women in the long term. It would seem that there is no way out of this impasse because a point of principle is concerned. The only agreement which could be reached is if one or other of the sides of the dispute stepped down. It was clear in the debates on this issue that neither side was prepared to compromise its position. The outcome of the debate was, therefore, the inclusion of a draft article which presents both points of view and is therefore contradictory. Because of this inconsistency several states refrained from voting on the proposal.

The draft article reads:-

- "(2) Appropriate measures to be taken including legislation to ensure the health and safety of all workers, male and female, in their conditions of employment.
- (3) Protective legislation applying to women should be reviewed in the light of scientific and technological knowledge, and should be revised, repealed or extended to all workers as necessary.
- (4) States Parties shall adopt measures to extend special protection to women for types of work proved to be harmful for them from the standpoint of their social function of reproduction and such measures shall be reviewed and brought up to date periodically



in cases where such limitations are discriminatory. Regard to free choice of employment of women and in the light of advance in scientific and technological knowledge." 66

It would be difficult to describe such a statement as an agreement. It is nothing more than a statement of opposing points of view. Similarly the solution reached on the question of the New International Economic Order was an agreement to disagree as both sides were able to have their points of view included in the Programme.<sup>67</sup>

The Commission is in a position to adopt such inconsistent resolutions because it is not the final arbiter on difficult points. The report of the Commission goes to ECOSOC and to the General Assembly and it is these arenas where points of principle are finally battled out.

Members of the Commission are, in effect, merely doing the spadework for other, more important, organs of the United Nations and in a sense it is not necessary for the Commission to reach a firm agreement at any time. If ECOSOC or the General Assembly wishes a more lasting and rational solution to an issue then they are free to take the decision themselves or to refer the problem back to the Commission for further debate.

Before going on to describe the types of decision made by the Commission it would be useful to recapitulate what has been discussed in the process of decision.

1. In many instances the Commission bases its decisions on the detailed reports which are prepared by the Secretariat of the United Nations. This is particularly true where technical questions are involved or where a measure of expertise in a particular field is required. In these circumstances decisions follow closely those recommendations or those draft proposals contained in the reports. To an observer of United Nations' practice this comes as no surprise as in the U.N. family of organisations as a whole there has been increasing reliance on bureaucratic working methods.

2. In debates, however, the United Nations staff do not take sides. Their function during the course of meetings is to provide information and help when requested. They are rarely able to guide the debate as such except to inform the Commission on which matters are within its powers.

3. It is not necessary for the Commission to reach agreement on particular issues. The Commission on the Status of Women is empowered to make recommendations only and therefore it is in a position to agree or disagree. On the evidence of the twenty-sixth session this would seem relatively common. The Commission is only the first battle ground for issues of principle which may be continued in the wider arenas of ECOSOC or the General Assembly.

#### Types of Decision

Cox and Jacobson, in their work on decision making in international organisations analyse the type of decision made by examining its function. They identify seven different decision types; representational, symbolic, boundary, programmatic, rule creating, rule supervisory and operational decisions. It would be possible to find examples of all these types of decision in the work of the Commission but this would be of limited value in itself. More important is to examine whether the decision process hinders the Commission in carrying out the functions assigned to it and whether the process is conducive to the achievement of the Commission's goals. The Commission is asked to make decisions in several areas.

1. It may recommend to ECOSOC to adopt international legal instruments to further the status of women.
2. It may be requested by ECOSOC or the General Assembly to elaborate such instruments.
3. It may recommend action on the part of the organs of the United Nations for the furtherance of the status of women.
4. It may be asked by ECOSOC or the General Assembly to draw up detailed provisions for such programmes of action.
5. It is required to supervise, through the various reporting systems, the extent to which Member States of the United Nations are implementing programmes to enhance the status of women.
6. It must initiate its own work programme.

One or more of these functions may be more or less important at any particular session. Obviously point 6 was of prime importance in the early sessions of the Commission whereas at the twenty-sixth session much of the time was taken up in preparing a Programme for the Decade and the drafting of the Convention on the Elimination of All Forms of Discrimination Against Women. In the future, once such programmes are under way and the legislative role of the Commission is completed

it is likely that the supervision of States in the implementation of their obligations will assume a greater importance.

Of these functions 1, 2 and 6 could be regarded as the exercise of initiative. The task of the Commission is to recommend action to be taken in various policy areas. Two and 4 are of a more technical nature, the elaboration of instruments after the original initiative has been agreed upon. Five is, too, a technical function, in that certain skills are required to assess the value of the reports presented.

It is to be expected that decisions of an innovatory nature will be fewer in number than the decisions required to implement or administer the policy chosen. The decision to elaborate an international convention, for example, leads to the necessity of deciding on the contents of the Treaty, the scope of its provisions, the wording, the timing and so on. The decision to hold an International Year for Women leads to other decisions such as what to do during that year. Thus the Commission is required to adopt, in Etzioni's terms, fundamental decisions which lead to a host of smaller, less important ones.<sup>68</sup>

Looking back over the work of the Commission it would seem that the task of initiating fundamental policy decisions has passed from the Commission to the General Assembly. Initially the Commission settled the scope of its own terms of reference and in its early years made several important decisions as to its own work programme, e.g. the decision to adopt a Convention on the Political Rights of Women. Over time however the General Assembly has begun to assume this role.

Thus in the past fifteen years the General Assembly has recommended that the Commission become involved in the development activities of the United Nations and that the Commission elaborate first the Declaration and then the Convention on the Elimination of Discrimination Against Women. It is true that the Commission recommended that a year be designated as International Year for Women but all subsequent decisions as to work programmes were taken by the General Assembly or by the World Conference of the International Women's Year.

The tasks facing the Commission have come to be more in the way of implementing policy decisions. They are therefore rather more technical and more detailed than those fundamental decisions discussed above.

The work programme of the Commission reflects this change with several

continuing agenda items such as the discussion of the various reports systems, the implementation of the Declaration and some more short-term items such as the preparation of instruments or programmes. It is because these items are of such a technical nature that the Commission has come to be so dependent on the Secretariat for the preparation of detailed reports. The Commission itself cannot canvass the whole range of options necessary to prepare legal or programmatic instruments, neither does it have the time nor expertise to read and assess the various reports of governments. Its increasing reliance on the expertise of the Secretariat is therefore inevitable. It is also inevitable therefore that the main thrust of the decisions will follow the lead of the Secretariat and will reflect the interests of the United Nations system as such rather than the interests of individual Member States of the Commission. Thus the work of the Commission has come increasingly to resemble the work of the United Nations as a whole with the elaboration of intricate and detailed programmes of action, of multilateral conventions, of decade long programmes and so on, becoming goals in themselves. Whether such programmes of action will actually enhance the status of women throughout the world seems to be of secondary importance, a fact which is emphasized by the failure of the Commission to develop means to assess the impact of such programmes.

The problem facing the Commission in the future will be whether it can break away from this reliance on bureaucratic methods wherein the goals of the of the organisation are limited to a continuation of its own work without assessing this work in real-life situations. One way of doing this would be to develop a strong system of assessment whereby the Commission could measure the impact of its policies on women in the world. However, in the past the Commission has been reluctant to do this, either because no attempt at devising such a system has been suggested or because the Commission itself has been caught up in the details of its own workload and has therefore not been able to objectively examine its impact.

It is imperative therefore that the Commission concentrate its attention on improving its supervisory activities and to do this the Commission will have to limit the range of its commitments so as to be able to focus on what is important. It will still have to rely on the expertise of the permanent secretariat but the Commission must learn

to exercise its authority over the permanent staff in directing them towards goals other than those determined within the United Nations system. After thirty three years of work the Commission should be in a position to assess its own success or failure but it will be unable to do so if it continues to rely on the Secretariat for its direction. The Commission needs to reassume its task of innovator which it has lost to the General Assembly and to the permanent staff of the United Nations' Secretariat, otherwise the Commission will find its role reduced to that of a "rubber stamp" on policies both initiated and elaborated elsewhere.



## CHAPTER SIX

### NOTES

1. Herbert H. Simon, "Administrative Decision Making" 1965 Public Administration Review Vol.25 p.31.
2. Ibid. p.32.
3. Herbert H. Simon, Administrative Behaviour (1945).
4. Peter Self, Administrative Theories and Politics (1972).
5. Notably by Charles E. Londblom, "The Science of Muddling Through" 1959 Public Administration Review Vol 19 p.79.
6. A. Etzioni, "Mixed Scanning: A Third Approach to Decision Making" 1967 Public Administration Review Vol. 27 p.385.
7. Graham T. Allison, The Essence of Decision (1971).
8. Op.cit. in note 5 above.
9. Op.cit. in note 6 above.
10. Thomas J. Price, "Behaviour Modes: Towards a Theory of Decision Making" 1975 Journal of Politics Vol.37 p.417.
11. Op.cit. in note 7 above.
12. It has been suggested that this type of approach may prove more useful than the theoretical approach as it is unclear how theorizing helps the reader understand the process better than he would understand a good description. See J. P. Cornford, "The Illusion of Decision", 1974 British Journal of Political Science, Vol. 4 p.231.
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14. See, for example, Kul B. Rai, "Foreign Policy and Voting in the United Nations General Assembly" 1972 International Organisation Vol.26 p.589, Edward T. Rowe, "Changing Patterns in the Voting Success in the United Nations General Assembly" 1969 International Organisation Vol.23p.231, Leroy N. Rieselbach "Quantitative Techniques for Studying Voting Behaviour in the United Nations General Assembly", 1960, International Organisation Vol.14 p.291.
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20. See, for example, Richard Falk, "On the Quasi-Legislative Competence of the General Assembly", 1966 A.J.I.L. Vol.60 p.782 .
21. Robert S. Wood, "The Behavioural Persuasion and Decision Making Approaches to Internal Organisation" 1974, International Organisation Vol.28 p.485.
22. J. Hadwen and J. Kaufman, How United Nations Decisions Are Made (1962) .
23. Ibid. p.14 .
24. M. McDougal and F. Feliciano, Studies in World Public Order (1960) and Law and Minimum World Public Order (1961).
25. Wood op.cit. in note 21 above.
26. Walter R. Sharp, "Decision Making in the Economic and Social Council", 1968, International Organisation, Vol.22 p.881.
27. R. Cox and H. Jacobson, The Anatomy of Influence (1973).
28. Wood op.cit. in note 21 above.
29. Cox and Jacobson op.cit. in note 27 above, p.14.
30. See, for example, the debate on "communication concerning the Status of Women" U.N. Doc. E/CN.6/SR.677. Paragraph 7 States that Begum Faridi (Pakistan) said "that her delegation had not had time to contact its Government to ascertain its views on agenda item 6. If a vote was taken her delegation would therefore be obliged to abstain".
31. U.N. Doc. E/CN.6/SR.632.
32. See Chapter 3 above.
33. Sharp op.cit. in note 26 above.
34. There has been some hostility towards United Nations' involvement in family planning matters as certain developing countries have viewed the Western concern with family planning as another attempt to exercise control over the poorer countries by limited their populations whilst retaining control over the international economy. These suspicions seem largely to have been allayed. R. Symonds and A. Corder, The United Nations and the Population Question (1945-70), 1973.

35. Sharp op.cit. in note 26 above.
36. U.N.Doc. E/CN.6/SR.665.
37. H. K. Jacobson, "The United Nations and Colonialism: A Tentative Appraisal" in L. M. Goodrich and D. A. Kay (eds.), International Organisation: Politics and Process (1973)
38. U.N. Doc. E/CN.6/601.
39. U.N. Doc. E/CN.6/L.716/Add.2.
40. U.N. Doc. E/CN.6/601.
41. In an interview with a member of the Division for the Equality of Men and Women in July 1977 it was stated that the sponsors of this resolution had asked the advice of the Secretariat as to its drafting. It is not surprising therefore that it follows closely the wording of the report by the Secretary General.
42. U.N. Doc. E/CN.6/L.716.
43. The following quotations are all taken from U.N. Doc. E/CN.6/L.716/601 .
44. U.N. Doc. E/CN.6/608.
45. U.N. Doc E/CN.6/594 and Corr. 1.
46. U.N. Doc. E/CN.6/L.6821.
47. U.N. Docs. E/CN.6/598 and Adds. 1 and 2.
48. U.N. Doc. E/CN.6/608.
49. Rules of Procedures for Functional Commissions of ECOSOC in U.N. Doc. E/4767 Rule 54.
50. Rule 55.
51. Rule 56.
52. Rule 62.
53. Rule 56.
54. Rule 57.
55. Rule 58.
56. Rule 59.
57. Rule 60.
58. Rule 60.
59. Rule 65.

60. Guy de Lacharrière, "Consensus et Nations Unies", 1968 Annuaire Français du Droit International, p.9. He defines consensus as "l'opinion collective mai non unanime d'une pluralité de personnes".
61. Anthony d'Amato, "On Consensus" 1970 Canadian Yearbook of International Law Vol. III p.104. He quotes McKlosky who uses the term "not to apply to any definable referent but rather to indicate a continuum between simple majority agreement and unanimous shared beliefs".
62. Scotland op.cit. in note 19 above.
63. Rule 48 provides that a member may move the closure of debate at any time. Two speakers may follow opposing the closure and then a vote is immediately taken.
64. C. W. Jenks, "Unanimity, the Veto, Weighted Voting, Special and Simple Majorities and Consensus as Modes of Decision in International Organisations" in Cambridge Essays in International Law (1965)
65. Cox and Jacobson op.cit. in note 27 above.
66. U.N. Doc. E/CN.6/608.
67. Above.
68. Etzioni, op.cit. in note 6 above.

## CHAPTER SEVEN

### NON GOVERNMENTAL ORGANISATIONS AND THE COMMISSION ON THE STATUS OF WOMEN



## CHAPTER SEVEN

### NON GOVERNMENTAL ORGANISATIONS AND THE COMMISSION ON THE STATUS OF WOMEN

Non-Governmental Organisations (NGOs) are of particular relevance to the Commission on the Status of Women as it was pressure brought to bear by Women's organisations which first introduced the question of the status of women into the League of Nations, the ILO and the United Nations. Subsequently the NGOs have provided a training ground for many of the women who have served on the Commission and several important developments have occurred through the initiatives of the NGOs e.g. the designation of 1975 as the International Year for Women. However, in meetings of the Commission, the role of NGOs is limited despite the fact that NGOs are given some formal powers.

This Chapter will examine the types of NGOs which are represented at the Commission on the Status of Women, their formal relationship to the Commission and will attempt to show how the NGOs exercise their powers.

According to Elise Boulding there are some 47 women's international organisations although they are not all organisations which deal exclusively with women's rights.<sup>1</sup> Miss Boulding identifies five fields of activity into which the women's organisations can be divided; religious, international affairs, professional, educational and sports. Thus the women's organisations cover the same kinds of activity as other NGOs whose membership is not restricted to one sex only.

The earliest women's NGOs can be traced directly back to the social feminist movement in Europe and the U.S.A.,<sup>2</sup> and were concerned with religious and social welfare issues. The International Abolitionist Federation, whose aims are the "abolition of the organisation and exploitation of the prostitution of others and the abolition of the regulation of prostitution by the public authorities as a legal or tolerated institution",<sup>3</sup> was established in 1875 under the title of the British and Continental Federation. Eight years later, in 1883, the World Women's Christian Temperance Union was founded in Detroit as an offshoot of the Women's Christian Temperance Union of the U.S.A.<sup>4</sup> Its first international convention was held in 1891. At roughly the same time, in 1888, the International Council of Women was formed in

Washington D. C., bringing together "women workers along all lines of social, intellectual, moral or civic progress and reform .... whether they be advocates of the ballot or opposed to women's suffrage".<sup>5</sup> The genesis of the idea for an International Council came from the suffrage associations of the U.S.A., the U.K., and certain other Western European countries, and its founders had close connections with various anti-slavery societies and other social welfare institutions.

The scope of the women's organisations subsequently expanded from the early concern with religious and social welfare issues.<sup>6</sup> The years 1916-1930 saw the establishment of 9 organisations dedicated to business and professional interests. Similarly in the years 1946-1970 five new business organisations were founded. These two periods coincided with the times when women entered the labour market during and following the two World Wars, and are a reflection of the increased opportunities open to women (in certain parts of the world at any rate) at these times. The existence of the three women's sports organisations, the International Federation of World Hockey Associations, the International Association of Physical Education and Sports for Women, and the International Women's Cricket Clubs, also reflects the change in attitude to the physical education of women in the twentieth century, with the recognition of the importance of physical education for girls as well as boys.

The claim has been made that NGOs are in general largely western-based organisations having little concern with expanding their membership into Third World African and Asian countries.<sup>7</sup> This criticism may have been true in the past but there has, in recent years, been a move in all the NGO's to increase their membership and activities in the Third World. However, there is a certain amount of truth in the statement and the same criticism can also be levelled at the women's organisations, several of which, as has just been noted, have grown up in the particular circumstances existing in the U.S.A. and in Europe. The statistics would seem to bear out these comments.<sup>8</sup> The vast majority of the women's organisations have their headquarters in the West, with the exception of the Jewish organisations, the All African Women's Conference (Algeria), the Federation of Asian Women's Organisations (Philippines) the Pan Pacific and South East Asia Women's Association

(Korea), the International Alliance of Women (Colombo), and the International Federation of Women in Legal Careers (Iran). Two other national organisations have been established outside the western hemisphere, the All Pakistan Women's Association and the All India Women's Association. The choice of headquarters does not necessarily prove a particular bias in an organisation and there has been a move amongst many of the organisations to expand membership throughout the World. Organisations which have been extremely successful in achieving almost global representation are the World Association of Girl Guides and Girl Scouts, with 101 national sections, the World Union of Catholic Women's Organisations, with 82 national sections, and the Women's International Democratic Federation, with 97. Certain organisations by their very nature could not acquire such a large membership. The International Women's Cricket Council, nor surprisingly, has only eight national sections. The business and professional organisations tend to be concentrated in countries with a well-developed capitalist economy. Again, this is to be expected.

Despite the expansion of membership, some of the women's organisations retain a certain attitude of benevolence towards the Third World which could be described as a continuation of the social feminist ideal of "doing good" to the less fortunate members of society. Such an attitude becomes apparent when the programmes of the organisations are examined. Many of the women's organisations aim to provide a limited number of scholarships for women from the developing countries either to come to study in the West or to continue their education in their own countries. Several of the women's organisations help to provide funding for local projects in rural industries or agriculture. Few of them actively work to pressurize governments to change the conditions which bring about the inferior status of women. Elise Boulding, writing as Chairman of the Women's International League for Peace and Freedom, says that

"As a Euro-centric intellectual organisation of middle-class women concerned with development and peace we have failed to make an adequate critique of standard development theory which postulates that urbanisation, industrialisation and its concomitant developments of literacy and mass communications open up opportunities for everyone to acquire a greater variety of social competencies ...."9

The Women's International League for Peace and Freedom is not, however, the only women's organisation to have failed to develop such a critique. Other organisations occasionally display attitudes more fitting for a nineteenth century imperialist ideology than for an international organisation in the twentieth century. In her statement to the twenty-sixth session of the Commission on the Status of Women, the representative of the World Women's Christian Temperance Movement described the activities of the Women's non-governmental organisations in the following way:

"Many of us have followed the work of the Commission carefully throughout the years with increased activity in rural areas and in urban. We have worked as corporate and as individual groups. We spent much time in the jungles of Africa doing paramedical work among women and children who suffered from inequality, from lack of development, from poor health due to abuse of their bodies, and of course from illiteracy." 10

The phrasing of this statement displays a lack of sensitivity towards the African States and roused indignation not only amongst the African delegates to the Commission but also amongst those organisations who were pursuing development programmes in Africa". 11

The women's NGOs are not only geographically limited, they are, in the main, also elitist organisations rather than mass-based groups although there are some exceptions such as the Women's International Democratic Federation with a membership of some 8 million in 97 countries. The World Union of Catholic Women's Organisations represents several million women in 82 different countries. 12

Certain of the organisations are, of their nature, elitist as they bring together professional and business interests and, therefore, to a limited circle of highly qualified women. This is true of those organisations which are limited to a specific profession, such as the International Association of Women and Home Page Journalists, which was founded in 1964 and has a total membership of 550. 13 It is also true of organisations which are not specifically linked to a particular profession, such as the International Federation of Business and Professional Women, or Zonta International, both of which are open to women from a wide variety of professions. Some 18 of the women's organisations are business or professional organisations and therefore represent a small but articulate minority of the world's women.



Other organisations are more directly elitist in character. Altrusa International is open exclusively to "one outstanding representative of each particular business or profession within the territory of an Altrusa Club and is by invitation only."<sup>14</sup> The Inner Wheel is another exclusive club. Membership here is open only to the wives of Rotarians and has a total membership of 49,000. The International Federation of University Women is open to women who hold a degree from a University and has a membership of 220,000.<sup>15</sup>

It is not only the business organisations which are limited to certain sectors of the female population. Moral crusading activities are traditionally the activities of the middle classes,<sup>16</sup> and this has been true of the women's NGOs. It is not that all the NGOs specifically limit their membership to middle class women but, rather, that this type of activity does not attract, for various reasons, women from the less affluent sectors of society. This is not a valid statement for all women's organisations, for example, the Women's International Democratic Federation and the World Union of Catholic Women's Organisations count in their membership all sectors of the female population. However it is true of the majority of the women's organisations in existence today.

It is also true that the national sections of certain organisations attract the support of some of the most influential women in a particular country. The Girl Guides Movement, for example, is in Britain traditionally associated with royal patronage and is very largely a Protestant middle-class institution for girls. In many Third World Countries (a good example being the Philippines) it represents an elite corps of girls and women.

Any movement which is so selective in its membership may easily lose touch with the realities of female existence in other parts of society. Boulding suggests that this has been the case with the women's organisations working in the Third World and explains

"The usual reason given for not working with any but the educated elites of a given country, that women must be at a certain level of social and educational sophistication before they are ready to work on the problems of peace and social and economic justice at national and international levels, is based on ignorance of the knowledge and skills which excluded sector women in fact possess."<sup>17</sup>



She goes on to suggest that without the participation of women from the non-elite sectors of society, efforts to improve the status of women in any country are doomed to failure. It is not apparent, however, that all the women's organisations would agree with such a statement.

Another criticism of traditional women's organisations is levelled by those feminists who argue that the women's organisations are based on an hierarchical structure which is essentially a male view of society. The earliest women's organisations arose out of the male-dominated social reform movements and they adopted a pre-existing pattern for their own organisations. Over the years this structure has not changed and so there is still a distinct hierarchical structure with an elected or appointed Secretary General or President and office bearers at the international level and a similar structure at the national level. The organisations have formal and written constitutions and are registered under the law of the country in which they have their headquarters.

The members of the organisation are removed from its work at the international level insofar as the contact which the international secretariat has with national and local sections is minimal.<sup>18</sup> Contact may be made via a newsletter or by personal contact between the secretariat and the heads of national sections, but there seems to be little two-way flow of information and ideas between the "grass-roots" of an organisation and those who work for it at the international level. The women's organisations appear therefore as formal, rather stable organisations, lacking much reference to their mass base.

This question of organisational structure is very important in the light of developments of the women's movement in the twentieth century. The "Women's Liberation Movement" eschewed any such notions of hierarchical structures and tried to form "groups" rather than organisations. The result was an insistence on informality or arrangements in an attempt to establish a movement on what they described as lines of thought which were essentially female. In describing this approach Freeman says:

"... the younger branch of the movement prides itself on its lack of organisation. From its radical roots, it inherited the idea that structures were always confining and conservative, and leaders, isolated and elitist. Thus, eschewing structure and damning the idea of leadership, it has carried the

concept of everyone doing her own thing to the point where communication is haphazard and coordination is almost non-existent ... Most groups have no requirements for membership (other than female sex), no dues, no written and agreed upon structure and no elected leaders."19

It was perhaps unfortunate for the already existing WINGOs that the women's movement of the 1970s exhibited this mistrust of formal organisations. Radical women did not wish to be identified with organisations which they saw as being part of a male establishment. Therefore, the women's organisations did not see either a sizeable increase in membership or a change in composition in terms of class during the 1960s and 1970s. Neither were there any attempts to establish new international womens organisations based either on the new "women's liberation" philosophy or along the more flexible lines advocated by the feminists of the 60s.

The WINGOs represented at the Commission on the Status of Women have a shared belief in the value of law as an instrument of social change. Each is committed to working towards the improvement of the status of women through various means such as education but also through the formal institutions of the law and legislation to achieve greater equality for women. At the national level this manifests itself as pressure on governments to adopt legislation and policies aimed at creating equal rights for women. Such pressure may be applied through national machinery, such as a national commission of women, or through more informal mechanisms, such as consultation on specific pieces of legislation.

On the international level women's organisations have been active within those inter-governmental organisations which have been concerned with questions relating to women. This is true of both regional organisations and those of a near-universal character.

Within the League of Nations questions relating to the status of women did not occupy a central position. However, four areas for discussion arose; the broadly similar problems of the traffic in women and the existence of prostitution; the problem of the repatriation of women and children who had lost their homes in time of war, and the question of the nationality of married women.

This latter question of the nationality of married women was brought to the attention of the League by the representative of Sweden in 1923 who had been approached by the International Alliance of Women (then the International Women's Suffrage Alliance) with the demand that a world conference be held to discuss the whole question of nationality.<sup>20</sup> A conference was eventually held in 1930 (the First Codification Conference of the League of Nations) and the delegates to that Conference were lobbied by the members of the Alliance, the International Council of Women and certain other organisations demanding for women "the same right as a man to retain or change her nationality."<sup>21</sup>

Traffic in women and prostitution were problems to which the League addressed itself from its earliest days. In 1921 a Conference on the traffic in women was held attended by 34 countries and "les principales associations privées".<sup>22</sup> One result of this conference was the establishment of a League of Nations Permanent Advisory Committee on the traffic in women and children. The committee was purely consultative and was composed of specialists, "Ceux-ci devaient d'ailleurs être recrutés parmi les représentants des principales associations privées et des principales organisations féminines internationales."<sup>23</sup>

The last area in which the League took an interest in the situation of women was in relation to those women who had been abducted from their homes during the wars in Turkey and in Asia Minor. The League had less resort in this work to the women's organisations although several of them did, however, help to provide refugee centres for retraining and rehousing women repatriated by the League. (The Red Cross provided valuable assistance in the repatriation schemes). In order to coordinate the work of the organisations, a High Commissioner was appointed whose task was to both coordinate activities and to raise funds for refugee activity.

Within the League it could be said that the women's organisations provided initiatives for action, support for activities undertaken under the auspices of the League as well as practical assistance. Through their insistence, they obtained representation not only on the Committee on the Traffic in Women but also "On the committee for child welfare, on the commission of enquiry into the position of women in the Orient, on the commission dealing with slavery, and on the Saar plebiscite commission."<sup>24</sup> It seems, therefore, that the women's

organisations had as fruitful a relationship with the League as any other group of organisations. This being said, it should be pointed out that NGOs as a whole suffered a loss of status within the League over time.<sup>25</sup> This loss of status was perceived by the World Young Women's Christian Association as a threat to independent activity within the League and an attempt by governments to eliminate the voice of public opinion from the international arena.<sup>26</sup>

There was a decline in NGO activity during the years 1939-1945 as a result of the difficulties in international communications caused by the war. With the restoration of peace and the establishment of the United Nations, new opportunities were opened up for the women's organisations to take part in international organisations for peace and human rights. Several new women's organisations, including the Women's International Democratic Federation, were established in the aftermath of the war. The Women's organisations played an active role in lobbying the delegates at the San Francisco Conference to include in the Charter a reference to equal rights for women, and in the early years of the of the United Nations played an active role in the establishment of the Commission on the Status of Women.<sup>27</sup>

A possible role for NGOs is recognised in article 71 of the Charter of the United Nations which provides that "The ECOSOC may make suitable arrangements for consultation with non-governmental organisations ... with international organisations, and, where appropriate, with national organisations". The exact scope of the term "consultation" is not defined and, over the years, has been interpreted variously within ECOSOC, sometimes stressing the importance of the work of the NGOs and as often ignoring the value of the NGO contribution. The ECOSOC/NGO relationship has been characterised by a series of crises, and, in general, it seems that there is a move towards reducing the role of the NGOs within ECOSOC rather than expanding it.<sup>28</sup>

A series of resolutions of ECOSOC have laid down the rules relating to the contribution of NGOs to the sessions of ECOSOC and its functional commissions. The latest in this series is Resolution 1296<sup>29</sup> although the arrangements for consultation are currently under review.



Resolution 1296 identifies three categories of NGOs: Category I (Organisations in general consultative status), Category II (Organisations in specific consultative status) and finally organisations which are termed Roster Organisations. Each of these three groups have their own rights within ECOSOC. All three groups have the right to receive a copy of the provisional agenda for ECOSOC meetings although only organisations in Category I may request that an item be placed on the agenda. Organisations in Categories I and II have the right to designate representatives to sit as observers at public meetings of the Council and its subsidiary bodies. Roster organisations may only attend those meetings which are concerned with matters which are within their field of competence. Written statements may be presented to the functional commissions of the Council by organisations in Categories I and II. Such statements are limited to 2,000 words in the case of Category I and 1,500 words in the case of Category II. An organisation in Category I is entitled to make an oral statement to a session of the Council or of a functional commission.

In practice these formal arrangements are not entirely observed. A practice has grown up of presenting written statements jointly to the Commission on the Status of Women by a group of organisations. Such statements may exceed the specified number of words although there has been no official ruling either on the permissibility or on the desirability of such joint statements. The NGOs feel that presenting their point of view in this way carries more influence and is more likely to attract the support of the members of the Commission. A good deal of informal lobbying occurs among the NGOs in order to rally support for a particular statement.

The importance of oral statements is minimal. At the twenty-sixth session of the Commission only five oral statements were presented,<sup>30</sup> and they were not greeted with much enthusiasm by members of the Commission.<sup>31</sup> Oral statements are made by NGOs after all the government delegates and observers have finished speaking, and, thus, they have no impact value in the course of the debate itself. At the twenty-sixth session the representative of the International Federation of Business and Professional Women was able to make her statement only after a day and a half's deliberations by the governmental delegates.



Far more effective are the unofficial channels of communication through which the NGOs may make their voices heard. This occurs in three ways. The first is to gain the support of a member of the Commission who is also a member of the particular NGO. For the more influential organisations this is not difficult. To give a few examples from the twenty-sixth session; the Women's International Democratic Federation could count as members and/or supporters the representatives of the U.S.S.R., the Byelorussian Soviet Republic, and the German Democratic Republic. International Planned Parenthood Federation had the support of the representatives of Egypt (who is the Chairman of the Cairo Family Planning Association). The International President of the International Council of Women was also the representative of Thailand, and the Rapporteur of the session from Iran was a member of the International Federation of Women Lawyers.

Secondly, the NGOs create a network of informal contacts. This may happen before or in between meetings of the Commission or at informal functions such as receptions or at meetings over lunch or dinner. (An enormous amount of energy is spent by certain NGOs in entertaining members of the Commission). In this way a sense of mutual understanding can be seen to emerge as various points of contact are established.

Finally, there is the more formal approach of the lobbying of members in support of a particular issue. Such lobbying requires the exercise of certain political skills by the NGOs in assessing the reaction of government delegates to their proposals and in deciding on the tactics to be adopted in introducing an issue into the meeting. This lobbying also occurs in an informal way, and the NGOs utilize all available means to raise support for their proposals, including those mentioned above. Two notable successes by the NGOs with these methods have occurred in recent years. The first was the designation of 1975 as the International Women's Year - an idea originating with the Women's International Democratic Federation at the twenty-fourth session in 1972. The second is the inclusion of the right of women to family planning advice and services in the proposed Convention on the Elimination of Discrimination Against Women. Such an inclusion is all the more remarkable as the proposal lacked the support of the Soviet Union and had the support of the U.S.A., a situation which may well have resulted in a stalemate if not for the fact that the representatives of the International Planned Parenthood Federation had gained the support of all the developing and

non-aligned countries represented and had persuaded the delegates of the USA and UK to remain out of the debate.<sup>32</sup>

Resolution 1296 also provides that "where there exists a number of organisations with similar objectives, interests and basic views in a given field, they shall, for the purposes of consultation with the Council, form a joint committee or other body authorized to carry on such consultation for the group as a whole". No such committee has been established among the women's organisations, and, in fact, they have shown a great deal of reluctance to come together in any spirit of cooperation, preferring to maintain a series of small "empires". Thus the International Federation of Business and Professional Women and Zonta International have similar aims and a similar membership, yet they have not come together to form any kind of joint policy or joint viewpoint. Similarly, the International Federation of Women Lawyers and the International Federation of Women in Legal Careers would appear to have much in common yet both organisations insist on maintaining their separate identity. Such an approach tends to fragment whatever power the organisations possess and puts them in a vulnerable position whenever they come under attack.<sup>33</sup>

Some attempts have been made to encourage the coordination of the activities of the women's organisations. One of the earliest coordination groups is the so-called WINGO - Women's International Non-Governmental Organisations - which has its origins in the Joint Standing Committee of Women's International Organisations which was established in Geneva in 1925. The Committee was amalgamated in 1934 with the Liaison Committee of Women's International Organisations which had been founded in London in 1931. The title of the latter organisation was adopted and the headquarters moved to London. The Liaison Committee continued its work in the United Nations, attending the meetings of the Commission on the Status of Women until the sixteenth session in 1962. The group which is now known as WINGO was an offshoot of these other organisations and adopted WINGO as its title in 1962.<sup>34</sup>

WINGO is a completely informal and unstructured grouping of about twenty women's organisations.<sup>35</sup> There is no headquarters and no secretariat. The chair changes annually and therefore there is no continuity from year to year. No records are kept of the meetings and any secretarial work is done on a voluntary basis, usually by one of the larger

organisations involved. WINGO meetings are entirely ad hoc and occur - once or twice a year whenever several of the women's organisations happen to be in one place for some particular reason e.g. before a session of the Commission on the Status of Women. WINGO meetings provide a forum for discussion of common points of interest and an occasion to formulate some sort of common policy and tactics.<sup>36</sup> A more formal arrangement for consultation is the Sub-Committee (in the case of Geneva) and the Committee (in the case of New York) on the Status of Women which is part of the Conference of International NGO's in Consultation with ECOSOC. This conference, which in practice tends to act as two different organisations, one in New York and one in Geneva, was set up in 1950 to "safeguard the privileges conferred on NGO's by Res. 288B(X)."<sup>37</sup> The aim of the Conference is "to provide a forum for the exchange of views," rather than being a policy-making body.<sup>38</sup>

The constitution of the Conference allows for the setting up of Special or Ad Hoc Committees in particular fields. Such committees act on a semi-independent basis although they must report to the Board on their activities. Two parallel sets of Committees exist, one in New York and one in Geneva, thereby raising the problem of the co-ordination of activities. In Geneva there are six Committees, including the Committee on Human Rights with its Sub-Committee on the Status of Women, the Development Committee, and the Committee on Disarmament. A similar structure exists in New York, with a full and very active Committee on the Status of Women.

The Geneva Sub-Committee on the Status of Women was founded in the late sixties and became increasingly active in the years preceding the International Women's Year in 1975. Observers have noted a certain "solidarité féminine"<sup>39</sup> which has developed over the years between the women's organisations and between the women's organisations and the Commission. This sense of solidarity is increased with the continuous interaction of representatives of the various organisations in meetings of WINGO and the Sub-Committee, as well as in numerous personal and professional contacts.

Despite these limited attempts at cooperation it is only very recently that the idea of coordinating to present a united policy to the Commission on the Status of Women has been suggested. The Sub-Committee on the Status of Women and the Special Committee on Develop-

ment held a joint seminar in July 1976 with two aims in view. The first was to develop a joint policy statement for the next session of the Commission (the 26th session, which was held in September) and the second was to develop a policy for the Decade 1975 to 1985.<sup>40</sup> Four topics had been chosen as priority areas for discussion namely; literacy, vocational training, rural development, and peace and disarmament, and papers were presented outlining these problems. These topics had been chosen because they were four of the areas identified in the International Women's Year World Plan of Action and also in the Programme of Concerted International Action for the Advancement of Women, where the link between the status of women and questions of development was identified as part of the same problem and stress was placed on the importance of solving the problems of women within a framework of overall development. The discussion which followed the presentation of the papers revealed deep-rooted antagonisms between two groups of organisations. One group, which is wholly Western in composition, regards the problems facing women as distinct from the wider political problems of war and peace, disarmament, and, to a certain extent, development. The second group, described by certain members of the first as Communist insist on presenting the status of women in its larger context. At the seminar this group tended to dominate the meeting although they were in the minority. The Western organisations were reluctant to discuss any issues which they perceived as 'political' as they regarded them as a waste of time and instead preferred a concrete statement to be made on specific topics. In the course of the seminar a compromise was reached, both groups agreeing to the principles which should be contained in a statement to the Commission on the Status of Women. However, the consensus subsequently broke down and no joint statement was presented. The same split was evident at the twenty-sixth session of the Commission. Not only did the two groups or organisations tend to sit at different ends of the NGO area, they also displayed a certain amount of antagonism when discussing other organisations. A representative of the Women's International Democratic Federation described some of the western organisations as a "group of well heeled women" and implied that they had little idea of the actual status of women throughout the world. The representative of the International



Federation of Women Lawyers described the difference between her organisation and the International Federation of Women in Legal Careers as being in the fact that "they are more Third World than we are, we are Third World, of course, but they are more so". Antagonism was also shown towards the Women's International Democratic Federation by certain organisations in their insistence that the Women's International Democratic Federation did not initiate the idea of the International Women's Year but merely claimed to do so. Some suggested that the International Alliance of Women was in fact the initiator. Ms. Sipila, a neutral in the debate, reinforces the claim of the Women's International Democratic Federation.<sup>41</sup>

This type of disagreement between groups of organisations and the fragmentation of power within the NGO movement which was mentioned previously has led to the NGO's as a group to be in rather a vulnerable position when attacks have been made on their independence within ECOSOC. There have been occasions in the past when the status of NGO's in consultation with ECOSOC has been very low.<sup>42</sup> However, within the Commission on the Status of Women the NGO's have been respected as a necessary part of the machinery.

The history of the women's movement is largely a history of non-Governmental activity and in the case of women's rights organisations NGO's existed long before any inter-governmental machinery was established. Indeed it was only under pressure from these groups that inter-governmental machinery was established at all. The World Women's Party, led by Alice Paul, was among the most active of lobbyists at the Conferences of the Pan American Union in the twenties and the International Council of Women and International Alliance of Women were active in lobbying the San Francisco Conference to include in the Charter a reference to women's rights. It was these same organisations that urged the creation of the Commission on the Status of Women and provided some of the personnel for the original "nuclear sub-commission". The Commission on the Status of Women in fact owes its existence to NGO's.

However given the emphasis in international law and in traditional theories of the State system on the all encompassing role of the State it is not surprising that in their formal relations the NGO's should be seen to play a secondary role within the Commission. The language of ECOSOC towards the NGO's is permissive, ECOSOC grants rights, defines these rights, decides which groups may or may not exercise



them, interrogates NGO's on suspicious activities and so on. ECOSOC has these powers because it is composed of States and States are the only entities recognised in international law as having full legal personality. Yet it is increasingly recognised that although States may be the only entities to possess full legal capacity international organisations and even individuals may have rights and duties under international law. So too may NGO's be said to have some legal capacity, albeit limited. Those NGO's in consultative status have the right to make statements written or oral, and have the right to be consulted by the Commissions of ECOSOC. These rights may be limited but they are nonetheless real and give to international NGO's some measure of international legal personality in the exercise of these rights. It is however unfortunate that the relationship between ECOSOC and the NGO's has to be defined in these terms because immediately the NGO's are seen to assume a secondary role, their place becomes strictly defined and their powers limited. NGO's speak last in the Commission debates, they find the need to lobby representatives rather than to initiate activities, they become like appendages to the central body composed of Government representatives. Looking at NGO's in this way belies their importance in the Commission, an importance which may not be obvious during the sessions of the Commission but which continues from day to day. In the practical aspects of the work of the Commission, in its fieldwork so to speak, the NGO's prove their importance. They resume their autonomy and carry on their day to day work without reference to the Commission. At this point the Commission is dispensable to the NGO's but not the NGO's to the Commission. The international section of an NGO, the section visible at sessions of the Commission, has as one function the coordination of its national affiliates. It represents these affiliates before the Commission, statements express the experience gained at the national level and each of the national affiliates has a life of its own. International NGO's become necessary only when confronted with problems which can be channeled through international machinery. International organisations provide support and increase the importance of many national affiliates. Viewing the NGO's merely

from their appearance at the Commission presents therefore a distorted view. It is true that international representatives attend the sessions but true support for the Commission and notably in its operational aspects is in practical activity at the national level. From this perspective the situation appears slightly different. NGO's conduct their programmes to a large extent independently of any international inter-governmental organisation. Decisions are taken by the organisation as to the allocation of its resources, its priorities and so on and the Commission must invite their cooperation, and request their assistance. NGO's may of course refuse but to the extent to which they decide to cooperate they become partners, equals in a continuing process between the Commission and the NGO's aimed at improving the status of women.

There is evidence to show that Members of the Commission appreciate this element of partnership more so than perhaps the Members of other functional commissions or of ECOSOC. In both ECOSOC and the Commission on Human Rights there has been some opposition to independent NGO activity.<sup>43</sup> Support for NGO's in the Commission on the Status of Women may be evidenced from the fact that several members of the Commission have been or are also active within the NGO movement, and several have close relationships with various NGO's. Or it may be that both NGO representatives and members of the Commission have a certain "feminine solidarity" in a single cause. Or it might be that the women's organisations command respect simply because of their records of achievement in areas which the Commission can only hope to match.<sup>44</sup>

NGO's are important to the Commission in many ways. They provide the Commission with information concerning the status of women in many countries of the world. As noted above the geography of the women's NGO's points to their being concentrated in the west, mainly in Europe and North America. However many of the NGO's have national sections in countries of Africa and more particularly in Asia and most express the desire to expand their activities worldwide. The potential of the NGO's in providing the Commission with information is therefore enormous. Information is provided in many ways.

(a) Communications. The bulk of communications presented to the Commission in the non-confidential list come from the women's organisations. These may be international NGO's having consultative

status with ECOSOC or national sections of such organisations or national women's organisations. Information concerned in communications most often relates to the activities of these organisations and the ways in which the organisation supports the activities of the Commission. The potential importance of the information contained in communications to the Commission was explained to the Members in the statement of the Women's International League for Peace and Freedom at the twenty-sixth session,

"It has also been suggested that 'mere consideration' of communications concerning women's issues is pointless, since the Commission on the Status of Women cannot take remedial action on any individual communication. However, this underestimates the importance of the perspective this body can develop from seeing such communications and appreciating the real-life situations they represent.

Such information is not available elsewhere. The funds of the Commission are limited and its members cannot be everywhere at once. Other groups and individuals throughout the world are doing valuable work to improve the status of women. The Commission on the Status of Women cannot find out about such efforts solely on its own initiative; but, by considering information submitted by such groups can gain the benefit of shared materials and act as a clearing-house for ideas about women's issues. As a result, the Commission can avoid duplication of effort when setting its work programme.

Along with the privilege of serving as the highest-ranking world body handling women's issues comes the responsibility to remain in touch with the concerns of the average woman whose lot it is the Commission's mandate to improve. All that is required is for the Commission to read its mail."<sup>16</sup>

(b) Statements to the Commission. A number of NGO's provide written or oral statements at the sessions of the Commission. The quality of such statements vary but they often provide the Commission with information relating to the activities of the organisation and often of the difficulties which the organisation encounters in its work to improve the status of women. Such statements may also point to areas in which the Commission may wish to consider taking action.

(c) Reporting procedures. NGO's have been requested to make comments and to give objective information relating to the status of women, both under the Declaration on the Elimination of Discrimination Against Women and under the Periodic Reports on Human Rights. Where

NGO's provided information it serves to fill out the reports of Governments notably by pointing to the obstacles which need to be overcome to raise the status of women. Occasionally the reports of the NGO's are sometimes of a high standard although the NGO's work to a tight budget and with limited personnel.

However, whilst praising the standard of reports by NGO's it should be noted that they do not provide as much information as their wide network of organisations could provide. - St. Joan's International Alliance, in reporting on the Declaration in 1976 gave information only on the United Kingdom. The Alliance has its headquarters in London and presumably has access to more information in that country than any other. The NGO's could mobilize their national affiliates, far more than is at present the case, to provide the information necessary under the reports procedure.

The NGO's do not serve only as informational inputs, however. They act as "change agents". This role as a change agent is explicitly recognised in the World Plan of Action and in particular in the regional plans. In this respect NGO's serve to balance inter-governmental and national structures in both their own programmes and in exchanging information and experience with governmental structures. It is at this level that the grass roots activities of national affiliates become most important. As noted above certain organisations have not begun to fulfil this type of role whilst to others it is considered the most important activity particularly in the developing countries. To give only a few examples the World Association of Girl Guides and Girl Scouts provides training for its members in certain developing countries in providing contraceptive services for small village and rural communities. The World Young Women's Christian Association provides support, both practical and financial, in the provision of food storage units or in basic education and hygiene. The WYWCA also works with the International Federation of University Women in the establishment of functional literacy schemes. These organisations were pioneers in this work both in providing materials for the schemes and in training local teachers who can continue them. Hundreds of functional literacy schemes for women throughout the developing world are staffed and supported by the voluntary efforts of women's organisations. The work of the Associated Country Women of the World (The Women's Institute) has helped in the realization of the extent of the problems in rural areas, an area which was largely



neglected in the past in the Commission but which has come to be acknowledged as being the most pressing problem to be faced if the situation of women on a world scale is to be improved.

The NGO's provide support for the Commission by disseminating information about its work. Thus a two-way flow of information can be maintained. The resolutions and recommendations of the Commission are reported in its national magazines and translated into the local languages of the affiliates of the NGO's. In this way the formal, legalistic documents of the Commission are diffused. However this statement requires a qualification. As noted above, few of the women's organisations have reference to a mass base. Many are elitist in character and so the extent of the impact of this type of activity throughout the world is strictly limited. NGO's could strive to reach out to a much wider audience through publicity campaigns, conferences, demonstrations, etc., if they are to have any success in explaining the meaning of the work of the Commission to the women of the world.

In another respect this elitism of the NGO's works in their favour. The women's organisations often provide a national lobby to persuade their Governments both to extend women's rights and to ratify the various international conventions elaborated by the Commission. This is the traditional role of pressure groups in pluralistic societies and the more influential an organisation the more support it can muster. It is the women's organisations in many parts of the world which have demanded and won legislative reforms in favour of women rather than the Commission on the Status of Women.

In recent years the importance of the work of NGO's in working towards improving the status of women has been recognised within the Commission and they have been brought into a network of activities relating to the World Plan of Action and the work of the Commission. All the functions of the NGO's mentioned above were recognised in the Declaration of Mexico on the Equality of Women and Their Contribution to Development and Peace, adopted at the World Conference for International Women's Year.<sup>46</sup> The Declaration states that

"National non-governmental organisations should contribute to the advancement of women by assisting women to take advantage of their opportunities, by promoting education and information about rights, and by cooperation with their respective governments."



The World Plan of Action for the Implementation of the Objectives of the International Women's Year is addressed

"primarily to Governments, and to all public and private institutions women's and youth organisations, employers, trade unions, mass communications media, non-governmental organisations, political parties and other groups."47

At the global level the Plan states that

"International non-governmental organisations and their national affiliates should also act jointly and separately, within their particular spheres of interest, to give effect, to the recommendations of the Plan within the 10 year period."47

On the regional level the Plan states that

"The regional commissions should provide assistance to governmental and non-governmental organisations to identify needed action, develop policies, strategies and programmes for strengthening women's roles in national development, and formulate requests for technical and financial assistance for such programmes."47

The Plan of Action for the Integration of Women in Development adopted for the Region of the Economic and Social Commission for Asia and the Pacific contains a separate chapter on NGO's and recognises that

"Non-governmental organisations, especially women's organisations, national family planning and other organisations, welfare agencies and trade unions, cooperative and religious bodies constitute important resources for development and vehicles for change. Their increased effectiveness depends on the policies of Governments and the increasing involvement of trained educated younger women and men."47

This emphasis on involving the NGO's in the work of the United Nations in improving the status of women was underlined at the twenty-sixth session of the Commission when a resolution was adopted in the involvement of NGO's in the implementation of the World Plan of Action. The resolution is important in that it gives whole-hearted support to the NGOs in their work without any reservation. During the course of the debates at this session the NGO's were applauded several times for their work and were subject of a special statement by the Chairman of the Commission in which the Commission recognised the value of the work of the NGO's. Only one adverse comment was made about the NGO's during the course of this session, by the delegate of Mexico who opposed giving NGO's financial assistance as they had 'big sisters with big purses'. Several other delegates made statements in

defence of the NGO's. The resolution recognises the importance of NGO activity,

"Bearing in mind that there are more than five hundred non-governmental organisations in consultative status with the Economic and Social Council and various specialised agencies,  
Considering that these non-governmental organisations have been working at the grass-roots level and have vast experience which has been of great assistance to the work of the United Nations and the specialised agencies, particularly in implementing the Declaration on the Elimination of Discrimination Against Women,  
Recalling especially that the General Assembly, in paragraph 8 of its resolution 3520 (XXX) of 15th December, urged non-governmental organisations at the national and international levels to take all possible measures to assist in the implementation of the World Plan of Action for the Implementation of the Objectives of the International Women's Year,

1. Requests all Governments and intergovernmental organisations to encourage non-governmental organisations to play their full part in the Implementation of the World Plan of Action for the Implementation of the Objectives of the International Women's year;
2. Requests also that all kinds of training and retraining programmes organised by the United and the specialised agencies, intergovernmental and regional organisations and all other organisations concerned in the implementation of the World Plan of Action should take note of the needs of the non-governmental organisations with a view to developing and using their specialised knowledge and experience to the greatest extent possible;
3. Requests further that the Commission on the Status of Women, in following up the implementation of the Convention on the Elimination of Discrimination Against Women, take note of the statements from non-governmental organisations together with reports submitted by States Parties to the Convention."<sup>48</sup>

It is clear that in the context of the work of the Commission on the Status of Women that the NGO's play an important role. This role is recognised and appreciated by members of the Commission, many of whom have been or are members of one or other of the organisations concerned. The NGOs have provided over time valuable support and assistance to the Commission in its work. Nevertheless the NGO's are kept at arms length by the United Nations as a whole, despite the strongly worded support offered by the Commission. At both the 1975 Conference for the International Womens Year and the 1980 Conference for the mid-Decade review the NGO's were given scant attention by the main body of the Conference. On both occasions they

were excluded from the debating chamber and left to organise their own form of conference. Such an attitude belies the formal statements of the World Plan of Action. It also serves to damage the cooperation which does exist between NGO's and the Commission on the Status of Women and to discourage further attempts at cooperation from new organisations or from organisations which in the past have shown little interest in the work of the Commission. As noted above the organisations which have tended to be represented at sessions of the Commission are elitist and western based and as such represent only a fraction of the world's women. Both international conferences could have opened the way for debate with a wider cross section of persons and ideas but the opportunity was not taken. It would seem therefore that the Commission will continue to address its traditional audience of women's organisations, and whilst their support is of value, it is only of limited value.

## CHAPTER SEVEN

### NOTES

1. Elise Boulding, "Female Alternatives to Hierarchical Systems, Past and Present" 1975 International Associations p.340.  
The figure given by Ms. Boulding is not definitive as she omits a few organisations from her list. It is difficult, however, to give a precise figure without a strict definition of the meaning of "women's organisation". It is possible to include as a women's organisation the International Abolitionist Federation, whose aim is the abolition of prostitution. Membership is open to both men and women, and the question of prostitution is a social rather than a women's question. However, prostitution has traditionally been dealt with as part of the women's movement and, therefore, the I.A.F., should be included in the list of women's organisations. A more realistic estimate of the number of women's organisations would be in the region of 54/55. Not all of these organisations have consultative status with ECOSOC and not all are represented at the Commission on the Status of Women.
2. For a history of social feminism see O'Neill, The Woman Movement (1969) .
3. Yearbook of International Organisations (1974).
4. For a history of the temperance movement see J. R. Gusfield, Symbolic Crusade (1966), Andrew Sinclair, Prohibition, The Era of Excess (1962).
5. International Council of Women, Women in a Changing World (1966) p.12.
6. Boulding, op.cit. in note 1 above demonstrates this fact in the following table:-

Table 1. Founding Dates for Women's NGO's and Number of Section Memberships'

Organization Category	1880-1901	1900-1915	1916-1930	1931-1945	1946-1970
Religious	YWCA (81) WWCTU (59)	FB (40) ICJW (21) IULCW (9) SJIA (12) WUCWO (82)		WFMW (20)	IFMW (27)
International Relations		IAW** (45) ICSDW** (34) WILPF (21)	ACWW (67) PPSAWA (14) WIZO (51)	WIDF (97)	AAWC (35) EUW (12) FAWA (11)
Professional	ICN (74)	IFHE (63)	ICM (42) IFBPW (52) IFUW (56) IFWLC (39) MWIA (37) MNF (5) ODI (12) SIA (38) ZI (44)	IFWL (68) WAVE (11)	IAWHPJ (22) ICWES (11) IUWA (32) PAMWA (13) WEGN (12)
Educational	GFWC (50) ICW (64)	IALC (13)	AI (12) ITW (42) WAGGGS (101)		WMM (46)
Sports			IFWHA (34)		IAPESGW (59) IWCC (8)

\*From Yearbook of International Organizations 1973 and Yearbook of International Organizations, 1974 (Brussels: Union of International Associations 1973 and 1974). Complete names of organizations are listed in the Appendix.

\*\* The original name of IAW was International Women Suffrage Alliance, and the original name for ICSDW was International Socialist Women's Secretariat.

7. See, for example, "The Geography of International Organisations" 1972 International Associations p.173.

8. Boulding's table of her 47 organisations point to this fact:-

Table 2. Distribution of Organizational Strength of Women's NGO's by Region

Region	Countries and Territories		All NGO Branches		Mean Number Branches Per Country	Reli gions	Int'l Rel.	Profes. sional	Educa tional	Spor tional
	N	%	N	%						
Africa	56	26	349	19.3	7.4	18.0	25.1	14.8	23.8	16.0
Americas	50	23	461	25.5	9.8	33.1	21.1	24.51	24.4	26.0
Asia	46	21	334	18.5	7.1	14.2	19.4	19.7	19.5	19.0
Australasia	27	12.5	89	5.0	1.9	7.7	4.9	3.7	4.3	5.0
Europe	37	17	574	31.8	12.2	25.4	29.4	37.3	28.1	34.0
WORLD	216	99.5	1807	100.1*	8.4	98.4*	99.9*	100.0	100.1*	100.

\*Error due to rounding



Table 3. Headquarters Distribution of Women's NGO's

A. By NGO Category

Religious	United Kingdom	3
	United States	2
	Israel	1
	France	1
	Switzerland	1
	Germany (FDR)	1
International Relations	United Kingdom	3
	Switzerland	1
	Germany (GDR)	1
	Germany (FDR)	1
	Algeria	1
	Philippines	1
	Korea (S)	1
	Israel	1
Education	United States	2
	France	2
	United Kingdom	2
	Switzerland	1
Professional	United Kingdom	6
	France	5
	Austria	2
	Belgium	2
	Switzerland	2
	United States	2
	Iran	1
	Sweden	1

B. Summary of Headquarters Distribution

United Kingdom	14	Germany (FDR)	2
France	8	Germany (GDR)	1
United States	6	Algeria	1
Switzerland	5	Philippines	1
Israel	2	Korea (S)	1
Belgium	2	Iran	1
Austria	2	Sweden	1

9. Elise Boulding, "Non Governmental Organisations and the Search for Economic and Social Justice".  
1971 International Associations p.362.
10. U. N. Doc. E/CN.6/NGO/270.
11. This statement is based on personal observation whilst attending the twenty-sixth session and also on statements made by several NGO representatives.

12. I am using the word "elitist" in the general sense of an organisation whose membership is limited to certain sectors of the population. In the case of the women's organisations membership is limited, sometimes by choice and sometimes by accident, to professional women or to those women who have sufficient leisure time to devote to the activities of an organisation. Normally membership is drawn from the middle or upper classes.
13. Yearbook of International Associations (1974).
14. Ibid. Altrusa has a total membership of 17,950 in 12 countries.
15. The I.F.U.W. has as its unofficial motto "Small but Intelligent", quoted in a private interview with a member of the organisation, 25th September, 1976.
16. Troy Duster's study on the legislation of morality is based on the thesis developed by Sven Ranulf that the middle classes have a near monopoly on moral indignation. Troy Duster, The Legislation of Morality (1970). With respect to the social roots of the women's movement Alice Rossi writes; "the Moral Crusader feminists were almost all native born, middle class Americans from rural areas or small towns. They were decidedly not cosmopolitan, urban, worldly in their thinking or life styles. What motivated their efforts on behalf of women was less a rational impulse expressed through their pens than a moral impulse acted out in the political arena. In both social origins and the deepest premises of their thinking, most early-born American feminists were profoundly conservative and moralistic". Alice S. Rossi, The Feminist Papers (1974).
17. Boulding, op.cit. in note 9 above p.364 .
18. An extreme example of this was provided in an interview with the representative of the International Federation of Women Lawyers at the twenty-sixth session. On being asked about the size of her organisation she replied that she did not possess a list of members, neither did she know the size of her organisation nor the distribution of membership throughout the world. The reason she gave was that no adequate records had been kept for the previous ten years or so.
19. Jo Freeman "The Rise of the Women's Liberation Movement" 1972/3 American Journal of Sociology Vol.76 p.796. For a full account of the rise of the Women's Liberation Movement see Judith Hole and Ellen Levine, Rebirth of Feminism (1971).
20. L. C. White, International Non-Governmental Organisations (1951).
21. Manley O. Hudson, "The First Conference on the Codification of International Law 1930 A.J.I.L. Vol. 24.
22. Ki-Cheng La Femme et la Société des Nations PH.D. Thesis, University of Paris 1928 p.73.

23. Ibid. p.75.
24. White, op.cit. in note 20 above, p.245
25. Ibid.
26. Loc.cit. White, quotes a letter from the World Young Women's Christian Association expressing such feelings.
27. It is not only women's organisations which are represented at the Commission on the Status of Women. Other organisations have an interest in its work and over the years some 90 organisations have attended. Some of these organisations have displayed no more than a passing interest in the work of the Commission and have subsequently lost interest. The International House Association, for example, was represented at the fourteenth session but never again. The Society for Comparative Legislation was represented at the ninth and eleventh sessions but there is no subsequent record of it in the records of the Commission. At the twenty-sixth session 33 NGO's were represented, 19 of which were women's organisations. Amongst those organisations which were not women's were the International Students Movement for the United Nations, the Friends World Committee for Consultation and the Bahai Community. Some aspect of the work of these diverse organisations relates to the status of women.
28. "Discrimination and Fragmentation in the 1970s", 1971 International Associations; Dwain C. Epps, "NGO Interventions at the ECOSOC Committee on NGOs", 1974 International Associations; "A renewed GNO relationship for the fourth decade," a report by a working group of the New York section of the Board for the thirteenth General Conference of NGO's in consultative status with ECOSOC (Unpublished); S. Liskorsy, The United Nations Reviews its NGO System (1970); Charles C. Ascher, "NGO in Consultative Status with ECOSOC, the Tenth General Conference and Beyond" 1966 International Associations; A. Judge, "U.N.-NGO Relations: A New Departure?", 1973 International Associations.
29. ECOSOC resolution 1296 (XLIV), 1968. The Resolution of ECOSOC 1296 (XLIV) 44th session 6-31st May, 1968. The Resolution states that organisations in general consultative status, Category I, are those organisations "which are concerned with most of the activities of the Council and can demonstrate to the satisfaction of the Council that they have marked and sustained contributions to make to the achievements of the objectives of the U.N....., and they are closely involved with the economic and social life of the peoples of the areas they represent, and whose membership, which should be considerable is broadly representative of major segments of population in a large number of countries." The Resolution goes on to define organisations in special consultative status, Category II, as being of three different types: "Organisations which have a special competence in, and are concerned specifically with, only a few of the fields of activity covered by the Council, and which are known internationally within the fields for which they have or seek consultative status." Organisations which are concerned with human rights "should have a general international concern in this matter, not restricted to the interests of a particular group of persons, a single nationality

or the situation in a single State or a restricted group of States. Special consideration shall be given to the application of organisations in this field whose aims place stress on combatting colonialism, apartheid, racial intolerance and other gross violations of human rights and fundamental freedoms".

"Major organisations one of whose primary purposes is to promote the aims, objectives or purposes of the U.N. and a furtherance of the understanding of its work". "Other organisations which do not have special or general consultative status but which the Council or its Committee on NGOs, considers can make occasional and useful contributions to the work of the Council or its subsidiary bodies or other U.N. bodies within their competence, shall be included in a list (to be known as the Roster). This list may include organisations in consultative status or a similar relationship with a specialised agency or a U.N. body".

30. By the Women's International Democratic Federation, the International Federation of Business and Professional Women, the International Planned Parenthood Federation, the World Women's Christian Temperance Union, and the International Federation of Women Lawyers.
31. Personal observations.
32. See Chapter on decision making above.
33. Boulding, op.cit., in note 1 above relates such an approach to the "privatistic" roles of women in the household.
34. Mary Saran, "WINGO's and Their Future Role", 1962 International Associations.
35. My information about WINGO comes from a series of interviews with several women's organisations.
36. Whilst describing the activities of WINGO I am not suggesting that such organisations provide the only way in which coordination can take place. There is a network of informal contacts between the different NGOs where personal relationships develop and this more than anything else may provide a binding link between the organisations.
37. Charles C. Ascher, "NGO's in Consultative Status with ECOSOC. The Tenth General Conference .... and Beyond" 1966, International Associations.
38. Report of the Statutes Committee to the Thirteenth General Assembly of the Conference, May, 1976 (unpublished).
39. This particular expression was used in a letter to me from Alice Paquier of the International Federation of University Women.
40. At the suggestion of the International Planned Parenthood Federation a seminar was held on 9th July, 1976, to work out a coordinated policy statement for the twenty sixth session of the Commission. There is no published report of the session. The comments relating to the seminar are based on personal observations.

41. Ms. Sipila stated that "the idea of International Women's Year was initiated by the Women's International Democratic Federation". Documents of the World Congress for International Women's Year held in Berlin 20-24 October, 1975, p.25. The documents are published by the National Organising Committee of the German Democratic Republic for the World Congress for International Women's Year.
42. See articles cited in note 28 above.
43. Ibid.
44. Within ECOSOC's Committee on NGO's there has been some antagonism between certain women's organisations and certain states. The United States and the United Kingdom opposed giving consultative status to the Women's International Democratic Federation on the grounds that WIDF was an arm of the Soviet government and therefore governmental in character.
45. U.N. Doc. E/CN.6/NGO/274.
46. U.N. Doc. E/Conf.66/34.
47. Ibid.
48. U.N. Doc. E/5909.



## CHAPTER EIGHT

### THE 1980 CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

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The 1980 Convention on the Elimination of All Forms of Discrimination Against Women (hereinafter the 1980 Convention) was adopted unanimously by the United Nations General Assembly on December 18, 1979.<sup>1</sup> It can be seen as a culmination of the work of the Commission in its function of preparing international legal instruments on the status of women. The Convention brings together in a single international instrument the various international conventions already in existence which define the sphere of women's rights and brings into the legislative ambit many of the recommendations which have been adopted over the years by the Commission since its inception in 1946.

This chapter is devoted to an analysis of the Convention placing it in the context of United Nations efforts to establish a body of human rights law. The chapter will draw parallels with other international conventions in the human rights field and will analyse the meaning and importance of the various articles. In many ways the Convention overlaps with existing international Conventions but in certain respects it goes beyond them.

#### The background to the Convention

The Declaration on the Elimination of Discrimination Against Women (hereinafter the Declaration) had been adopted by the General Assembly on 7th November, 1967. It had taken four years of detailed discussion both within the Commission on the Status of Women and the General Assembly to prepare this document which was merely a statement of moral and political intent and was not intended to be, nor in the main was it considered to be, legally binding.<sup>2</sup>

Five years later the Commission on the Status of Women debated the possibility of preparing a Convention along the lines of the Declaration and decided to request the Secretary General to call upon the member states of the United Nations to transmit their views or proposals on the proposed international instrument.<sup>3</sup> The Commission also set up its own Working Group which would meet 5 days before its twenty-fifth session (1974) whose task would be to report to the Commission on the replies received. The Working Group presented a report at the twenty-fifth

session which summarises these replies from governments and puts forward various proposals as to the contents of the projected Convention. At its twenty-fifth session the Commission decided in principle to prepare a single comprehensive instrument of international law to eliminate discrimination against women without prejudice to any recommendations it might make in the future on the preparation of legal instruments to eliminate discrimination in specific fields.<sup>4</sup>

The Commission then called on Member States, the United Nations and NGOs to make comments on those draft articles which were contained in the report of the Working Group in time for its twenty-sixth session (1976). The Commission had before it at this twenty-sixth session a working paper prepared by the Secretary General containing 4 draft conventions.<sup>5</sup> The first, based on the report of the original Working Group, and incorporating the replies of governments, was the main text to be discussed in the course of the session. The other three draft texts, submitted by Benin, Indonesia and the All African Women's Conference were not discussed at all. During the debate on the draft Convention a further draft was presented by Belgium.<sup>6</sup> Certain parts of this text were taken as the basis of discussion for individual draft articles.

As far as work on the Convention within the Commission on the Status of Women is concerned the bulk of this work was completed at the twenty-sixth session (March, April, 1976 and resumed December 1976). The Commission thereafter presented the draft to the General Assembly whose Third Committee discussed the proposals at the 32nd through the 34th sessions (1977-79). The Third Committee established its own Working Group to discuss amendments and to clarify certain of the articles. As a whole the Third Committee discussed the Convention for a period of two days only (6,7 December, 1979) prior to recommending it for adoption by the General Assembly.<sup>7</sup> It was thought by some that this left too short a time to discuss the implications of all the provisions of the Convention, particularly as the Third Committee did not itself discuss the draft Convention as such and representatives were only allowed to comment on amendments proposed and not on the text itself.

The timing of the adoption of the Convention is of some interest. When the Commission on the Status of Women at first proposed the preparation of a Convention (1972) the General Assembly had not then designated 1975 as the International Year for Women. This they did in 1972.<sup>8</sup> The World Plan of Action adopted at the Mexico Conference in 1975 gave high priority to the adoption of the Convention<sup>9</sup> and thereafter the

General Assembly urged the Commission on the Status of Women to complete its work by 1976.<sup>10</sup> The Third Committee of the General Assembly completed its work on the Convention in December 1979 and it was obvious that there was a strong desire in this Committee to complete the Convention in time for the 1980 mid-Decade Review Conference.<sup>11</sup> Seven years is not such a long time in the preparation of international instruments of human rights, particularly given the fact that the Commission meets only every two years and it is obvious that the need to meet the deadlines laid down by the Mexico Conference pushed ahead the completion date of the Convention.

#### The Organisation of the Convention

Although the Convention is intended to form an instrument which will put into legal form the principles of the Declaration, the organisation of the Convention does not follow that of the Declaration. A rather closer model is the 1965 Convention on the Elimination of All Forms of Racial Discrimination, several phrases of which are echoed in the 1980 Convention. The Convention opens with a preamble of fifteen paragraphs, rather too long and too political in the eyes of certain governments,<sup>12</sup> setting out the beliefs of the members of the United Nations in the need for and justice in the granting to women of equal status with men. Part I of the Convention consists of 6 Articles. Article I provides a definition of the term discrimination against women; Article 2 is a statement of the obligations undertaken by the contracting parties; Articles 3 and 4 provide for a limited form of positive discrimination, Article 3 being a commitment to take all appropriate measures to ensure the full development and advancement of women, and Article 4 providing for an exception to the definition of discrimination against women contained in Article 1; Article 5 obliges States Parties to take appropriate measures to modify social and cultural patterns and to institute a system of family education stressing the importance of maternity and the sharing of parental roles; Article 6 refers to the obligation on States Parties to suppress both traffic in women and exploitation of prostitution. The Second part of the Convention covers political rights; political rights per se (Article 7), right to take part in the work of international organisations (Article 8), and rights in nationality (Article 9). The Third part deals with social and economic rights; educational (Article 10), employment (Article 11), rights to equal treatment in health care (Article 12), and equality of access to financial benefits (Article 13). Article 14 covers the special problems

of women in rural areas. Part Four deals with matters of civil law. Article 15 grants to women equality before the law and in all legal proceedings and Article 16 provides for the elimination of discrimination in marriage and the family. Part Five of the Convention establishes a Committee on the Elimination of Discrimination against women to consider progress made in implementing the obligations contained in the Convention. Articles 18-23 provide for a reporting system. The concluding Articles of the Convention (Part Six) contain the interesting provision that nothing in the Convention will affect provisions of national or international law which are more conducive to the achievement of equality between men and women (Article 23).

In terms of organisation the final version of the Convention which was finally adopted in 1980 diverges in some respects from the text adopted by the Commission on the Status of Women. The Commission had proposed the insertion in the first part of the Convention of a clause which would bind the States Parties to abolish provisions of national penal codes which discriminated against women, (Draft Article 6). During the course of the debate on this Article several representatives stated that in their view that it was a repetition of Article 2. However, others believed that it was necessary to retain the provision which corresponds to Article 7 of the Declaration.<sup>13</sup> In Part II of the Convention the Commission did not propose to insert any reference to women's rights to participate in the work of international organisations. In the draft, Part II dealt only with the rights to vote and take part in public life and the rights of women in nationality laws. In the same way the Commission did not insert a special article devoted to health care or to financial benefits in this section. It did, however, propose an article which would commit states to the provision of child care services to enable parents to fully participate in the labour market. Some differences occur also in the concluding paragraphs of the Convention with notable differences between the type of institutions which should be established to monitor the implementation of the Convention. It is clear from the debates in the Commission that there was no real agreement as to this point, however, and it was obvious that the members of the General Assembly would have to arrive at some type of compromise. There were also differences of opinion in the Commission as to some of the articles of substantive law, notably over the question of whether or not the Commission supported the development of protective legislation for women workers. This was one area in which the Commission has shown



little sign of agreement. It is an area to which the ILO is currently turning its attention<sup>14</sup> and debates in the labour movements of various states have still failed to reach agreement.<sup>15</sup>

### The Provisions of the Convention

#### THE TITLE

It is not unusual for States to disagree with each other on the specific wording of a title of a Convention. What is unusual about the 1980 Convention is that it gave rise to a debate on a point of principle. In the case of the 1965 Race Convention there was no doubt but that the intention of the drafters was to eliminate discrimination based on race. However, the 1980 Convention does not aim to eliminate discrimination based on sex but merely discrimination against women. It is, of course, true that women shoulder the burden of adverse discrimination based on sex, however, several representatives would have preferred the Convention to aim at eliminating all sex-based discrimination and not just that suffered by women. Thus the question of the title of the 1980 Convention assumes some degree of importance.

None of the draft Conventions propose as a title "Convention on the Elimination of Discrimination Based on Sex", although Norway and Sweden both made the point that the Convention ought to cover discrimination against men as sex based discrimination was a problem affecting both men and women.<sup>16</sup> Austria too had reservations about the title pointing out that the draft Convention not only contained provisions relating to the elimination of discrimination but also recommended the adoption of positive measures (affirmative action). Austria stated therefore, that the title was incongruous.

The only other question to be raised concerning the title was whether to follow the 1965 Convention on Race and add the words "all forms of" before discrimination or whether to follow the 1967 Declaration on the Elimination of Discrimination Against Women, and omit the words "all forms". The Commission decided to follow the 1967 Declaration and the General Assembly amended this and entitled it the "Convention on the Elimination of All Forms of Discrimination Against Women."

#### THE PREAMBLE

The preamble to an international treaty serves to express the reasons and purposes behind the adoption of that particular treaty. Treaties in the human rights field adopted under the auspices of the UN invariably recall in their preamble the Charter commitment to human rights and the inherent dignity and equal worth of all human beings. As well as these references there may be statements relating to previous international

instruments, conventions adopted or resolutions proclaimed relating to the subject matter of the treaty in question. All this is not less true of the Preamble to the 1980 Convention. However, this preamble goes further away from the central issue - the elimination of discrimination against women - than does the preamble to any other human rights treaty. Or at least at first sight it would appear so. The preamble refers not only to the equal rights of men and women as proclaimed by the Universal Declaration of Human Rights, the International Covenants, the conventions adopted under the auspices of specialised agencies and the resolutions adopted by the United Nations but it goes on to lay down some of the factors which will help eradicate inequality between men and women. Some of these seem rather remote from the immediate causes of discrimination:- the establishment of a new international economic order, the elimination of apartheid and foreign interference with the domestic affairs of other States, detente, disarmament, self-determination and development. All these issues are linked, in the preamble, with the question of the elimination of discrimination against women. This would seem surprising were it not for the fact that issues relating to women have become inextricably linked with questions of development and peace within the United Nations. The International Year for Women (1975) and the Decade for Women (1976-85) have, as their theme, the threefold elements of equality, development and peace. In this context, therefore, the contents of the preamble seem unsurprising. However, the preamble to a Convention should, in principle, lay down the purposes and reasons behind the contents of the Convention. In this case the issues raised by the preamble are not taken up again in the main text, they remain as rhetorical statements.

Several of the more political statements in the preamble were additions of the General Assembly although the G.D.R. had suggested a provision in the draft text to be submitted to the General Assembly to the effect that peace and security, the elimination of colonialism and apartheid and development are vital in promoting the rights of women. This paragraph had been accepted by the Commission as a whole although the USA did express its reservations.<sup>17</sup>

The text of the preamble, as adopted by the Third Committee of the General Assembly, caused some misgivings to the United Kingdom Government who found the preamble both too long and too overtly political

in tone. The arguments of the United Kingdom were presented by Mr. Wharmersley who suggested that "the preamble was much too long, consisting of fifteen paragraphs, whereas the International Covenant on Human Rights (sic), for example, had only five. In addition, some of those paragraphs (the ninth, tenth and eleventh) were unquestionably politically controversial and in some cases had little, if any, relevance to the Convention." However, as the Third Committee was unable to amend the text the UK was unable to do more than to request a separate vote on two of the more controversial provisions (tenth and eleventh) which were adopted by votes of, respectively, 88 to 1 with 23 abstentions and 85 to 1 with 23 abstentions.<sup>18</sup>

#### The Substantive Law

##### Definition

Article 1 of the 1980 Convention defines the term "discrimination against women". As noted above in the discussion on the title the Convention does not seek to eliminate discrimination based on sex but only that discriminatory behaviour which is adverse to women. In this the Convention is more limited in scope than is the Universal Declaration of Human Rights which provides in Article 2 that a prohibited ground of discrimination is, inter alia, sex. The same ground is found in both the International Covenant on Civil and Political Rights (Article 2) and the International Covenant on Economic, Social and Cultural Rights (Article 2), and in the ILO's Discrimination (Employment and Occupation) Convention as well as UNESCO's Convention against Discrimination in Education. Discrimination, as such, is not defined by the 1967 Declaration nor by the Proclamation of Teheran which was proclaimed by the International Conference on Human Rights in 1968. This latter document does, however, state that "the discrimination of which women are still victims in various regions of the world must be eliminated" (Paragraph 15), thereby emphasising the need for international action to eliminate discrimination not based on sex but against women. In the debate on this Article at the twenty sixth session of the Commission on the Status of Women the members of the Commission were faced with two alternative texts.<sup>19</sup> The first defined the concept of "discrimination against women" and is the text which was finally adopted. The second was a definition of "discrimination" which was stated to mean "any distinction, exclusion, restriction or preference which has the purpose

or effect of nullifying or impairing the recognition, enjoyment or exercise by women, on an equal footing with men, of human rights and fundamental freedoms in the political, economic, social, cultural, or any other field of public life. Both versions are based on the definition of "racial discrimination" in the 1966 Convention on the Elimination of All Forms of Racial Discrimination (Article 1). At the twenty-sixth session opinion was divided as to which text was preferable, some countries stated that the Convention should deal with all sex based discrimination whilst others preferred to see a Convention which would envisage special measures to deal with the special problems facing women.

The Commission chose to adopt the first alternative definition, that relating to "discrimination against women". This paragraph was adopted without a vote. However, both the representative of Sweden and Denmark stated that they would have abstained from the vote if a vote had been taken.<sup>20</sup> The decision to retain the definition of "discrimination against women" was confirmed by the General Assembly.

The behaviour which is prohibited by the 1980 Convention is "any distinction, exclusion or restriction made on the basis of sex which has the effect of or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." Two points are worthy of note here. The first is that there was a conscious decision to omit the words "or preference" after the word "restriction" at the twenty sixth session of the Commission.<sup>21</sup> With the addition of "or preference" Article 2 of the 1980 Convention would have followed exactly the wording of the 1966 Convention on Race and, accordingly, the representative of the United Kingdom introduced an amendment to this effect. Denmark supported the view of the U.K. that the wording should follow that of the Convention on Race but the amendment was not accepted although no reasons were given for its rejection. The 1980 Convention is therefore more restrictive than the 1966 Convention and presumably would permit, for example, employers to choose, all things being equal, a man in preference to a women for employment whereas such a preference based on racial characteristics would not be permissible.

A second point to note is the additon of the words "irrespective of



their marital status" by the General Assembly. The Commission itself did not propose that these words be included in the Convention although the Commission has undoubtedly accepted the need to ensure that discrimination against married women does not occur and has discussed the problem several times. However, the inclusion of the phrase in the Convention does make for greater clarity and helps refine the concept of discrimination against women.

Discrimination against women is prohibited in the "political, economic, social, cultural, civil or any other field". The provisions of the Convention go on to explore all of these spheres and elaborate the rights to which women are entitled. The 1966 Convention on Race omitted to state that discrimination was prohibited in any "civil" sphere and Schwelb comments that this is in contrast to the body of the Convention which speaks of rights in nationality law and marriage.<sup>22</sup> The 1980 Convention also covers these areas and is intended to modify several provisions of civil law which relate to marriage and the family. Therefore the word "civil" appears early on in the Convention and is thereby accorded a measure of importance.

#### The Obligations Accepted by States Parties

Like the Racial Discrimination Convention the States Parties to the 1980 Convention agree "to condemn discrimination" (Article 2). As Egon Schwelb argues in his analysis of the former Convention "it is not easy to establish the normative contents of this treaty commitment".<sup>23</sup> The obligation to condemn may well be satisfied by ratification of the Convention. It certainly would not indicate an obligation to ratify any other Convention relating to discrimination against women. It should perhaps be read in the light of the commitment which follows, viz. "to pursue by all appropriate means and without delay a policy of eliminating discrimination against women". The pursuit of such a policy would provide the normative content of the obligation to condemn.

The main thrust of the obligations in Article 2 are in the legislative sphere. Thus States Parties undertake: to embody the principle of non-discrimination in their constitution or in other legislation and to ensure the practical implementation of the principle; to adopt legislation, including sanctions, prohibiting discrimination against women; to establish legal protection for the rights of women including the establishment of legal institutions to ensure effective legal



protection; and to abolish existing laws including national penal provisions which constitute discrimination against women. In the non-legislative sphere States Parties undertake to refrain from practising discrimination against women and to ensure that all public authorities and institutions similarly do so; to take measures to eliminate discrimination "by any person, organisation or enterprise"; and to take appropriate measures to modify or abolish "regulations, customs and practices" which discriminate against women. This theme is taken up again in the concluding articles of the Convention when Contracting Parties undertake "to adopt all the necessary measures at the national level aimed at achieving the full realisation of the rights recognised" (by the Convention) (Article 24). This article merely repeats the specific obligations contained in article 2 but in a more general statement. It does seem to be redundant.

Two alternative texts of article 2 were considered by the Commission at its twenty-sixth session.<sup>24</sup> The first was along the lines of the provision eventually adopted containing specific obligations to act in certain spheres, whilst the second contained a more general statement condemning discrimination against women and agreeing to take all appropriate measures to eliminate such discrimination. Most of the States commenting on the alternatives preferred the first approach e.g. Portugal, Sierra Leone and USSR believed that "it is more positive and action oriented."<sup>25</sup> However, the actual text of the draft was criticised during the debate and a draft article put forward by Belgium was taken as the starting point for discussion. One interesting feature of this draft which was adopted by the Commission but rejected by the General Assembly was the obligation to promote organisations and movements whose purpose is to advance the status of women. A similar clause to this was included in the Racial Discrimination Convention where States Parties undertake to encourage "integrationist multi-racial organisations and movements ". There is no indication in the reports as to why womens' movements were not to be similarly encouraged. There were some reservations within the Commission about some of the provisions of article 2.<sup>26</sup> Both Sweden and the United States would have preferred to include a broader definition of discrimination to include all sex based discrimination not only that against women. Denmark was opposed to paragraph (a) of the draft which related to the constitutional and legal guarantees of the principle of non-discrimination. The draft adopted by the Commission did not make reference to

"other appropriate means" in this connection although the Danish amendment was later accepted by the General Assembly. The Danish representative pointed out that it was up to each country to decide how to ensure the application of the principle of non-discrimination and non-legislative measures, such as collective agreements, might be more appropriate. Another argument put to the Working Group of the Commission by the representative of Sweden related to paragraph (c) which obliges States to ensure that national authorities and institutions respect the principle of non-discrimination. Sweden pointed out that this might interfere with the autonomy of certain local authorities and institutions and might, therefore, be unacceptable to countries with such independent institutions. The provisions of article 2 oblige States Parties to undertake action on ratification of the Convention. Specific legal obligations are laid down. By contrast article 3 is a more general obligation "to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men". To this end States Parties agree to undertake all appropriate measures in the political, social, economic and cultural spheres. This article, although rather vague in its drafting, seems to correspond with article 2.2 of the Race Convention which permits States to take "special and concrete measures" to ensure the development and protection of certain racial groups. Thus article 3 would seem to permit States to take specific measures aimed at the advancement of women. If this is the meaning of article 3, and there does not seem to be another meaning, then article 4 repeats it. Article 4 provides an exception to the concept of discrimination as defined in the 1980 Convention. It permits States to introduce temporary special measures aimed at accelerating de facto equality between men and women. Thus the Convention foresees the possibility and even the desirability of schemes of affirmative action or positive discrimination. However, these schemes are not to entail the maintenance of unequal or separate standards and they must be discontinued when their objective has been achieved. An example of this type of action would, therefore, be the maintenance of quotas on the numbers of women admitted to vocational training schemes. A State would be permitted to establish a 50% quota for females, but must not provide for lower entrance requirements. Interestingly the wording of this provision was suggested by the

representative of the USA during the twenty-sixth session (1976) at a time when affirmative action programmes were under discussion in that country.<sup>27</sup> 1976 saw the judgement of the California Supreme Court in the case Baake v Regents of the University of California when privileged admission procedures to medical school were held to be unconstitutional.<sup>28</sup> The fact that affirmative action programmes were being questioned as to their effectiveness and validity might account for the careful phrasing of article 4 and the inclusion of the clause (such measures) "shall in no way entail as a consequence the maintenance of unequal or separate standards." In any event the wording of article 4 as adopted is far more specific in this respect than that proposed by the Working Group which read "The establishment of special temporary conditions for women aimed at establishing de facto equality shall not be considered discriminatory."

A further exception to the definition of discrimination is the adoption of special measures aimed at protecting maternity. Some of these measures are defined in article 11 of the Convention itself but article 4 includes any measures aimed at protecting maternity. This apparently gives free reign to States to adopt measures which would in other circumstances be considered discriminatory. Some of these measures might prove beneficial to women such as the provision of family allowances, others might, in practice, act against their interests. Thus if women with children were prevented from entering into certain types of employment this might be detrimental to their interests. However each State is the arbiter of its own special measures as the Convention does not provide for any procedures for evaluating such measures.

Article 5 places two further obligations on States Parties. Paragraph (a) commits them to modifying "the social and cultural patterns of conduct of men and women" in order to eliminate prejudices and practices based on notions of superiority and inferiority of either of the sexes or on sex role stereotyping. To the lawyer this must be the most problematic of all the articles of the Convention for it defies analysis. The obligation on the State is to modify behaviour patterns using all appropriate measures. The measures themselves are not defined nor is the extent of the behaviour patterns which are to be changed. Presumably each State must decide for itself the extent of sex role stereotyping in its cultural and social practices and then attempt to change these patterns. The presumption in the other articles

of the Convention must be that by preserving and extending the rights accorded to women discrimination against them will be abolished and their status accordingly enhanced. The presumption of the Convention as a whole must be that this process will itself cause modification to the social and cultural patterns of a society. If a woman is given, for example, the right to earn her living, to own property, to choose the number and spacing of her children then the stereotyping of roles of men and women must eventually be called into question. However article 5 seems to be creating a wider obligation on the States Parties than merely ensuring to women the rights contained in the Convention. The States themselves must actively engage in social engineering of both behaviour patterns and thought patterns. Presumably this means they must activate some kind of propaganda war in order to change attitudes. This kind of activity is foreseen in article 7 of the Convention on Race which requires States Parties "to adopt immediate and effective measures, particularly in the field of education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups." This article envisages a modification of thought and behaviour and specifies the type of activities foreseen. Article 5 of the 1980 Convention is perhaps comparable to this and therefore the main activity demanded of States is in education, culture and information. The extent of the obligation is however undefined and it would be very difficult to argue that it really meant anything at all. Does it mean, for example, that a country like the United Kingdom must ban women's magazines, produce television and radio programmes about women's rights, rewrite children's school-books? These are some of the suggestions that have been put forward by the women's movement in this country but it is doubtful if States are obliged to undertake any of these activities. It is also doubtful if the article commits States Parties to making illegal organisations which are anti-feminist. The Convention on Race obliges States Parties to, inter alia, "declare illegal and prohibit organisations which promote and incite racial discrimination" (Article 4). There is no similar specific obligation in the 1980 Convention presumably because the definition of the type of proscribed organisation would be too difficult and perhaps also because such proscription would conflict with notions of freedom of speech and association.



One method which States might adopt in the modification of cultural patterns is suggested in paragraph (b) which, however, in the text of the Convention is not linked by any conjunction or joining phrase. Paragraph (b) obliges States to ensure (and presumably provide) that "family education" includes an understanding of "maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children." In many societies this itself is a change of behaviour patterns for the responsibility for care of children is typically in the hands of the mother. Paragraph (b) would seem to indicate that States are obliged to educate their populations to ensure that both parents have rights and responsibilities as regards offspring. It must also ensure that their populations recognise that maternity should not be seen as an individual choice, but as a choice grounded in the need for reproduction in society (maternity as a social function). This is a contentious provision. For many it will appear as a limitation on one of the most private of individual rights and decisions. If maternity has a social function and is recognised as such then the parents right to choose on the number and spacing of their children might be called in question in times of under or over population. This would seem to conflict with the provision of article 16.1(e) of the Convention which ensures the right of men and women equally to decide on the size of their family. Paragraph (b) creates a further cause for alarm in that it calls on States to provide "a proper understanding of maternity as a social function". To give to States the power to define what is or is not a "proper understanding" of any type of behaviour is arguably extremely dangerous for it gives States the ultimate right to decide how its citizens should think. To give States the power to intervene in a question such as maternity and the understanding of maternity allows States to encroach in an area which, for most women, is the most important in their lives. In the United Kingdom women have fought long and hard for the effective right to regulate their own fertility, for the right of access to contraception and abortion. To give to governments the authority to determine an understanding of these issues would, for many feminists, be an abrogation of their own freedom to order their lives.



## Traffic in Women

Article 6 of the 1980 Convention corresponds to article 8 of the 1967 Convention and relates to sexual abuse of women. States Parties agree to take measures "to suppress all forms of traffic in women and exploitation of prostitution of women". This wording is the same as that of the Declaration and is somewhat unclear as to its meaning. It can be contrasted to the wording of Paragraph 159 of the World Plan of Action adopted in Mexico in 1975 which provides that "specific legislation and other measures should be taken to combat prostitution and the illicit traffic in women, especially young girls". The government of Norway proposed, in its comments on the draft convention prepared by the Working Groups of the Commission on the Status of Women, that the Convention follow the wording of the World Plan of Action rather than the Declaration. However, the Commission preferred to retain the wording of the Declaration.

The problem arises as to whether States Parties agree to suppress the exploitation of prostitution of women or to suppress prostitution itself. The difference would lie in the person who gains from the prostitution of women. The person who, for example, lives on the immoral earnings of a prostitute would fall to be punished under the phrase "exploitation of prostitution" but if prostitution itself were made illegal then the prostitute would be liable for criminal proceedings.

Historically international law has dealt only with the former case i.e. the exploitation of prostitution although it would seem from the wording of the World Plan of Action that there might be developments in the area of prostitution in the future. There have been several international conventions relating to the traffic in persons and the slave trade<sup>29</sup> but in the context of a discussion of the 1980 Convention the most important is the 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others. This is the Convention which provided the phraseology for the 1967 Declaration and it outlaws the procurement or enticement of another person for the purposes of prostitution, even with the consent of that person (man or woman), and the exploitation of the prostitution of another person, even with that person's consent (article 2). Article 3 forbids the keeping or management of brothels or the renting of a place for the purpose of the prostitution of others in the knowledge of the unlawful use of that place. Article 6 of the 1980 Convention undoubtedly covers these same areas but probably goes no further. The States Parties

do not undertake to implement measures to suppress prostitution as such. Article 6 of the 1949 Convention further provides that Parties to that Convention shall abolish any laws or regulations which require prostitutes to follow special registration or supervisory procedures. Article 6 of the 1980 Convention may also subsume this article although it is unclear from the reports if this was, in fact, the intention of the parties.

One extension of article 6 was proposed by the representative of Belgium at the twenty sixth session of the Commission on the Status of Women. She proposed that the words "and attacks on the physical integrity of women" be included at the end of the sentence. It is not clear what the Belgian amendment was meant to cover but it seems that it would have committed States Parties to take all measures to prevent sexual crimes, such as rape, which violate the physical integrity of women. However, the amendment might go further than this to cover the outlawing of operations such as the removal of the clitoris which are performed in many areas of the world and which have been the subject of debate in the Commission for many years. However it is unclear as to the real meaning of the amendment which was not debated in the Commission.

#### Political Rights

Article 7 of the 1980 Convention deals with the political rights of women. This is an area in which there already existed an international convention, prepared by the Commission on the Status of Women and adopted by the General Assembly in 1952.<sup>30</sup> However the new Convention expands the concept of political rights somewhat and can, therefore, be seen as an advance on the 1952 Convention on the Political Rights of Women. Both Conventions state that the Contracting Parties shall ensure to women, on equal terms with men the right to vote in all elections (and the 1980 Convention adds in all referenda), the right to stand for election to all publicly elected bodies, and the right to hold public office and to perform all public functions. These rights are also recognised in the 1967 Declaration on the Elimination of Discrimination Against Women. The 1980 Convention goes further and gives to women the right "to participate in the formulation of government policy and the implementation thereof" and to participate in non-governmental organisations and associations concerned with the public and political life of the country." The addition of these extra provisions stems from discussions during the 1975 World Conference of the International Women's Year held in Mexico.

At the Conference delegates discussed action which should be taken during the Decade for Women (1975-85). In the discussion of political rights it was pointed out that

"women are not involved in the decision making and their views and needs are often overlooked in planning for development. As the majority of women do not participate in the formulation of development plans and programmes, they are frequently unaware of their implications and less inclined to support their implementation and the changes the programmes seek to bring about ..... A major objective of this Plan is to ensure that women shall have, in law, and in fact, equal rights and opportunities with men to vote and to participate in public and political life at the national, local and community levels".<sup>31</sup>

Accordingly the World Plan of Action lays down as an objective for the period 1975-80 the encouragement of women to enter into political activities and to take part in public life. The World Plan goes even further and suggests affirmative action in this field e.g. special recruitment of women, quotas and so on. However these latter proposals were not suggested as being suitable topics for codification as international law. The recognition of the right of women to participate in policy formulation is therefore part of the policy of encouraging women to make use of the other rights accorded to them by the 1952 Convention.

#### The Opportunity to Represent Governments in International Affairs

During the discussion of the article relating to political rights of women (article 7) the Federal Republic of Germany commented that the right to hold public office should be granted at the international as well as the national level.<sup>32</sup> However the Commission on the Status of Women did not include a reference to the right of women to participate either in the work of international organisations or as a representative of governments at the international level. The General Assembly accordingly inserted a further article (8) which provides that States "will take all appropriate measures to ensure to women" "the opportunity to represent their Governments at the international level and to participate in the work of international organisations."

To some extent this provision coincides with article 8 of the United Nations Charter which states that "The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs". This prohibition was reiterated by a General Assembly Resolution of 1972 which urged the United Nations "to ensure equal

opportunities for the employment of qualified women at the senior and professional levels and in policy making positions."<sup>33</sup> However both article 8 and this Resolution are aimed at modifying United Nations recruitment policy. Article 8 of the 1980 Convention is aimed at improving the record of the Contracting Parties in their choice of representatives in international life.

Such a policy is advocated by the World Plan of Action of 1975 which exhorts Governments to ensure that women "are equitably represented among the principal delegates to all international bodies, conferences and committees".<sup>34</sup> So too does the Programme of Concerted International Action for the Advancement of Women call for women's increasing representation at the international level.

#### Nationality

The question of nationality of married women was one of the first to which the Commission addressed itself. As a result of work in the Commission 1957 saw the adoption by the General Assembly of the Convention on the Nationality of Married Women. This Convention recalls in its preamble article 15 of the Universal Declaration of Human Rights which proclaimed that "everyone has the right to a nationality". The 1957 Convention did not lay down the principle that in questions of nationality men and women should be treated exactly the same. The Contracting Parties agreed that neither marriage nor its dissolution, nor the change of nationality of the husband should automatically change that of the wife. Neither would the change of nationality of the husband prevent the wife from retaining hers and, further, that special naturalisation procedures should be available to the alien wife to enable her more easily to obtain naturalisation. This Convention was aimed to redress the balance in the laws of the Contracting Parties in favour of the woman who, through the action of her husband, found her own nationality automatically changed. The last provision which allowed for special naturalisation procedures is itself discriminatory and implicitly embodies the assumption that the nationality of the wife will follow that of her husband.

The 1980 Convention provides a general statement of principle on the question of nationality rather than any specific provisions. States Parties agree to grant men and women equal rights to acquire, retain or change their nationality. It then repeats the provision of the 1957 Convention that marriage neither marriage to an alien nor his change of nationality during marriage shall render the wife stateless, or automatically



change her nationality, or force upon her the nationality of her husband. The Convention then goes well beyond the 1957 Convention and provides that men and women will have equal rights with respect to the nationality of their children.

The text as transmitted to the General Assembly by the Commission on the Status of Women followed more closely the provisions of the 1957 Convention and contained two additional clauses. The Commission retained the provision relating to specially privileged naturalisation procedures and also provided that the present Convention should not be construed as affecting provisions of national law granting the alien spouse of a national the right to acquire the nationality of the other spouse. Both these provisions were deleted by the General Assembly.

During the debates in the Commission on this topic and in the written comments of governments it is clear that there was some disagreement as to the provisions of the article relating to nationality. A particular difficulty lies in the final paragraph which grants equal rights to spouses in respect of the nationality of their children. As it stands this provision is unclear as to its meaning. Nationality is not a question to be determined solely on the basis of the wishes of an individual. At birth the nationality of a child is normally governed by the rules of the State in which s/he is born. S/he may acquire the nationality of that State, even if her/his parents are aliens, or s/he may assume that nationality of one of her/his parents. Normally this would be the nationality of the father except where the child is illegitimate. Where the parent of a child wishes to change the nationality of that child the law normally lays down certain procedures to be followed and certain conditions to be met. A provision which grants to parents equal rights in the transmission of their nationality might lead to the situation whereby a child holds dual nationality, which might not always be in her/his best interests, or, whereby s/he has no nationality at all when the parents are unable to agree. The best interpretation of paragraph 2 would therefore be that where a choice is to be exercised as to the nationality of a child the decision maker can take into account the nationality of both parents and potentially the child can acquire either. Presumably the decision maker will ensure that the interests of the child, if not paramount, are taken into consideration. It also means that those States whose laws on nationality are governed by the ius sanguinis should make provision for the possibility of a child to



acquire the nationality of either of her/his parents and in the case of disagreement to provide some judicial procedure for deciding the question. The provision cannot be taken to mean that parents have an automatic right to choose the nationality of their child or to automatically pass on to the child their own nationality.

#### Rights in Education

The first article of Para III of the 1980 Convention, which part deals with economic, social and cultural rights, is devoted to the elimination of discrimination in the field of education. Article 10 of the 1980 Convention coincides with article 9 of the Declaration on the Elimination of Discrimination Against Women. The right to equality of treatment in the educational sphere is perhaps the most important of all the cultural rights afforded to women because without it women are unable to make use of their rights at work in public life or in the home. Yet education is one sphere in which women face deep rooted discrimination. Work done by UNESCO points to the fact that the vast majority of the world's illiterates are female and that where there are scarce educational facilities they are more likely to be allocated to boys and men. The right to education without discrimination based on sex is recognised in the Universal Declaration on Human Rights. Article 26 states that "everyone has the right to education" whilst article 2 states that everyone is entitled to all the rights set out in the Declaration without distinction based inter alia, on sex. Discrimination in education in all its forms was of cause for concern to UNESCO who adopted a Convention against Discrimination in Education in 1960. This Convention prohibits discrimination, including "any distinction, exclusion, limitation or preference" which is based on inter alia, sex and which "has the purpose or effect of nullifying or impairing equality of treatment in education" (article 1). However the Convention provides for certain exceptions in article 2 which are not deemed to constitute discrimination. One of these is "the establishment or maintenance of separate educational systems or institutions for pupils of the two sexes, if these systems or institutions offer equivalent access to education, provide a teaching staff with qualifications of the same standard as well as school premises and equipment of the same quality, and afford the opportunity to take the same or equivalent courses of study". There are difficulties with the phrasing of this exception with the use of the word "equivalent" in preference to the

more emphatic word "same". The exception in the 1960 Convention permits States Parties to, in effect, offer different types of education for boys and girls as long as they are equivalent, and equivalent is undefined in the Convention. Thus each State remains free to define "equivalent access to education" or "equivalent courses of study". The word equivalent itself means equal in value rather than the same and accordingly States would be able, for example, to allow girls access to examinations only in arts subjects but leading to a certificate and boys access to only science subjects but leading to the same type of certificate. Thus the Convention does not meet the problem of sex role stereotyping in education.

The International Covenant on Economic, Social and Cultural Rights of 1966 embodies the more general right contained in the Universal Declaration. Article 13 recognises the right of everyone to education and article 3 guarantees this right to everyone regardless of sex. The rights contained in the Covenant; to free elementary and fundamental education, of access to technical and professional education, of access to higher education on the basis of merit, are to be guaranteed for all, therefore, without discrimination as to sex. The Covenant does not provide for exceptions to this rule.

The Declaration in article 9 recognises the principle that females are to be ensured an equal right with males to education. The Declaration is unequivocal on the nature of this right. Females are ensured equal access to all educational institutions; the same choice of curricula, the same examinations, same qualifications of staff, premises and equipment of the same standard; equal opportunities for scholarships and grants; equal access to continuing education and literacy programmes. All of these provisions relate to the quality of the education offered and that quality must be the same for men and women. Article 9 adds a further provision which relates to "educational information to help in ensuring the health and well-being of families". This provision relates to education relating to family planning and it seems surprising that it was not included in article 10 which covers such things as maternity leave and child care facilities, or article 6 which relates to the family. Furthermore the wording of the provision seems rather strange until it is remembered that this is the first reference to a right to information on family planning in an international instrument and in 1967 there was not universal acceptance that family planning was a proper subject to be discussed in the context of human rights.

The 1980 Convention maintains the same unequivocal stance as that displayed in the Declaration as regards the education of women. There is no place in article 10 for equivalent standards for men and women. The Convention calls for the same standards in all aspects of educational facilities. Article 10 covers the same ground as had article 9 of the Declaration but with some additions. In addition to the areas covered by the Declaration the Convention commits States to ensure:

"(c) the elimination of any stereotyped concept of the roles of men and women on all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of text books and school programmes and the adaptation of teaching methods.

(e) the same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female student drop-out rates and the organisation of programmes for girls and women who have left school prematurely."

These three points had all been included in the draft convention adopted by the Commission on the Status of Women at its twenty-sixth session. However the wording was amended by the Third Committee to accord more with the wording of the World Plan of Action<sup>35</sup> and the Programme for the United Nations Decade for Women,<sup>36</sup> both of which call for the elimination of sex role stereotyping in education and the speedy introduction of coeducation in order to eliminate discrimination against girls and women in education.

In many respects the 1980 Convention is an improvement on the UNESCO instrument. As noted above the 1960 Convention provided only that girls and boys be provided with "equivalent" courses of study thus leaving States free to implement their own standards in education. This Convention, can, perhaps, be compared to the "separate but equal" doctrine propounded by the United States Supreme Court in cases relating to segregated education. The 1980 Convention, on the other hand, obliges States to undertake two types of activity. They must ensure equality of access to the same type of education but more than this they must undertake to progressively implement policies which will eventually lead to changes in socio-cultural patterns. Thus coeducation

is not to be encouraged as an end in itself but as part of a programme of eliminating stereotyped concepts which also includes such fundamental changes as the revision of text books and teaching methods. The 1980 Convention, therefore, demands a new policy in educational planning and a commitment by States Parties to use education as an instrument for improving the status of women. Article 10, therefore, has a negative and a positive aspect. Negative in the denial of discrimination and positive in the encouragement of forward educational planning to improve the status of women.

#### Rights at Work

Article 11 of the 1980 Convention relates to the elimination of discrimination in the field of employment. It is divided into three sections: the first paragraph sets out the rights of women in employment, the second, deals with measures to be taken to ensure their effective right to work by eliminating discriminatory practices due to childbirth, the third deals with protective labour legislation.

#### 1. Rights in Employment

##### (a) The right to work.

Article 23 of the Universal Declaration of Human Rights proclaimed that "everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment". Several years later (1964) the ILO took up this theme in its Employment Policy Convention (No.122) which commits States Parties to the Convention to pursue "as a major goal, an active policy designed to promote full, productive and freely chosen employment" (Article 1). According to the terms of the Convention the aim of such a policy is to ensure that work is available for all who are seeking it, and that the work itself is meaningful to the employee. Therefore, the right to work, according to this Convention, is expanded to ensure to the worker that s/he has a choice of employment and the right to a job which is in some sense rewarding to him or her. Furthermore, although it is not stated explicitly in the Convention, the right to work must be taken to mean the right to gainful employment. The International Covenant on Economic, Social and Cultural Rights provides in Article 6 that the States Parties "recognise the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses and accepts". The Covenant states, therefore, that work is to be both gainful and freely chosen.



In the light of these international instruments it is possible to interpret the 1980 Convention which recognises for women, on a basis of equality with men, "the right to work as an inalienable right of all human beings." Thus women are accorded the right to freely chosen and gainful employment for themselves. No legal restrictions can therefore be placed on women. Legally women do not require the permission of fathers or husbands in the exercise of this right. Such a statement of the legal position of women in respect of their right to work is, without doubt, an important step forward. It may serve to change the pattern of work for women throughout the world, particularly if the right to work is to be taken to mean the right to gainful employment. The report to the World Conference of the United Nations Decade for Women demonstrated quite clearly that the bulk of the female population does, in fact, work.<sup>37</sup> It is estimated that two thirds of all the work done in the world is done by females. However, much of this work is in the non-monetised sector. Women's work outside paid employment should be recognised as being one of the bases of the economies of many countries. Women already work, they exercise that right, but they are very often not remunerated at all for their work. The emphasis put on defining the right of women to access to the paid labour market reflects the dominant interest of the industrial countries in the preparation of international labour instruments in the past. Conditions in the developing countries are entirely different and it is only very recently that the particular problems of women in these areas have been recognised.<sup>38</sup>

#### (b) Equal Opportunities

The second of the rights relating to employment defined in the 1980 Convention is the right to the same opportunities in employment, "including the application of the same criteria for selection in matters of employment". The draft Convention which was presented to the General Assembly by the Commission on the Status of Women did not provide for a specific reference to equal opportunities in employment, this paragraph was added by the Third Committee of the General Assembly. However, it is in accord with the principles contained in article 10 which relate to equality in access to vocational training. However, the right to equal opportunities extends beyond the right of access to training and relates to the criteria for selection for employment.



The ILO had already addressed itself to the problem of discrimination in employment selection in its Convention concerning Discrimination in Respect of Employment and Occupation (No.111). This Convention, adopted in 1958 committed the States Parties to "declare and pursue a national policy designed to promote ..... equality of opportunity in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof". The Convention went on to elaborate the methods which States Parties might adopt in pursuing such a policy. These methods include the enactment of legislation, the pursuit of policies of non-discrimination in the state sector and the pursuit of cooperation between employers and trades unions organisations to promote the policy.

(c) Equality of conditions during employment

Paragraph 1(c) of the Convention deals with the right of choice of profession and the rights to job security and benefits in employment including the right of training or retraining. These provisions were included in the draft put forward by the Commission and they accord with the many recommendations which the Commission has made over the years to this effect. The provision also accords with articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights which provide for free choice of employment, the right to vocational training and equal opportunity for promotion. However, the 1980 Convention is more explicit in defining the scope of the right accorded to women.

(d) Equal Pay

Equal pay has for a long time been the subject of international instruments. It was inserted into the Treaty of Versailles in 1919 in the same instrument which created the ILO. Since then the ILO has adopted a separate Convention (No.100) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value. This Convention, adopted in 1951, commits States Parties "to ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value." The Convention, therefore, enshrines the principle of "rate-for-the-job" rather than "rate-based-on-sex". In the adoption of this Convention the ILO had the full support of the Commission on the Status of Women which had first suggested to the ILO that the principle of "rate-for-the-job" be enshrined in the Convention.

Equal pay for equal work is the standard adopted in the 1948 Universal Declaration of Human Rights. This more restrictive standard was retained in the 1966 Covenant on Economic, Social and Cultural Rights which in article 7, seeks to provide for a standard of fair wages and grants to women "equal pay for equal work".

In its discussion of the draft Convention at its twenty-sixth session the Commission decided to adopt the wording suggested by the Soviet delegate which added the words "as defined in the Convention of the International Labour Organisation on this subject" to the original statement of principle of the right to equal remuneration for work of equal value. The observer from the ILO herself was unhappy about this addition pointing out that Convention No.100 was currently under revision and would have preferred a more general statement such as "as defined in instruments of the ILO on this subject". The Soviet amendment was adopted however, although it was subsequently deleted by the General Assembly.

Paragraph (d) of article 11 does, in fact, cover more than remuneration and includes benefits and equal treatment. This wording is rather vague and it may be expanded to include such non-monetary benefits as equal holiday leave, equal pension rights and other benefits associated with employment. It also extends to "equality of treatment in the evaluation of the quality" of work which refers to job evaluation schemes. The Equal Remuneration Convention provides that "measures shall be taken to promote objective appraisal of jobs" where such an appraisal would assist in giving effect to the principles of equal pay. The 1980 Convention seeks to ensure that such schemes are undertaken on the basis of equality of men and women.

#### (e) Social Security

The Declaration on the Elimination of Discrimination Against Women provided in article 10 that women had the right to social security benefits and it was readily agreed in the Commission on the Status of Women that such a clause was necessary in the article relating to employment. It was the text provided by the Belgian representative which was adopted by the Commission and subsequently by the General Assembly. The right to social security is provided by article 9 of the International Covenant on Economic, Social and Cultural Rights although the scope of the right is not defined therein. As provided for in the 1980 Convention it seems to imply a system of social security

for persons who for various reasons are unable to find gainful employment. This would not seem to cover all women, therefore, and relates to the problem discussed above where women work in the non-monetized sector rather than in paid employment. The rights of the latter group to old age pensions and invalidity benefits might therefore not be defined by this article. Again the problem relates back to the nature of these rights relating to employment where they are more readily applicable to countries with well developed industrial economies where there is both a need for social welfare provisions which could not be provided by any other means (e.g. within the family) and an ability to provide the necessary finances. In the discussion of the rights of rural women during the twenty-sixth session of the Commission on the Status of Women the delegate of India stated that her country could not afford to provide a system of welfare services for the whole population and this is the experience of many developing countries. It will probably be the case, therefore, that several developing countries will prefer to make a reservation relating to this part of article 11.

(f) Health and Safety

The International Covenant on Social, Economic and Cultural Rights provides that States Parties should seek to secure "safe and healthy working conditions" (article 7 (b)). The ILO has sought to regulate conditions in certain industries such as underground mining, the regulation of night work for women and employment in certain chemical industries. This legislation is currently being debated within the ILO with a view to revising it in the light of new scientific findings. These debates on revision have been going on for several years within the ILO as some States have pushed to have protective legislation extended to cover all workers whereas other States (led by the Soviet Union) have sought to have womens potential role as mothers protected by privileged treatment.

During the debates on the question of protective legislation during the twenty-sixth session a bitter dispute arose between the United States and the Soviet Union. It had been proposed to include in the Convention a separate article relating to the protection of women workers, including a prohibition on their employment in heavy labour and in working conditions which might be harmful to them.<sup>39</sup> In the written comments on the draft Convention there was opposition

from several sources to this kind of provision including a comment from the ILO that prohibitions on employment of women should be limited to occasions where the work is dangerous to their functions of reproduction. Several States commented that labour protection should be aimed at the individual regardless of sex with a special exception during pregnancy, childbirth and after confinement. During the debate opinion was divided as to the need for a clause relating to protective legislation and no agreement was possible. The Commission accordingly adopted both points of view in a rather ambivalent draft article 13 which reads;

"2. Appropriate measures shall be taken, including legislation, to ensure the health and safety of all workers, male and female, in their conditions of employment.

3. Protective legislation applying to women should be reviewed in the light of scientific and technological knowledge, and should be revised, repealed or extended to all workers as necessary.

4. The States Parties shall adopt measures to extend special protection to women for types of work proved to be harmful to them from the standpoint of their social function of reproduction. Such measures shall be periodically reviewed and brought up to date in cases where such limitations are discriminatory with regard to free choice of employment of women and in the light of advances in scientific and technological knowledge."40

Paragraphs 2 and 3 were put forward by the United States representative and paragraph 4 by the Soviet delegate. The article was adopted as it stood by 10 votes to 0 with 11 abstentions and several representatives explained their abstention on the grounds that the article was confusing and contained duplications.

The article was eventually eliminated in discussions in the General Assembly's Third Committee and references to protective legislation were limited to those in article 11. Women are stated to have the right to safe and healthy working conditions "including the safeguarding of the function of reproduction". As far as protective legislation in general is concerned paragraph 3 repeats the wording of the U.S. draft paragraph 3 which calls for the revision, repeal or extension of protective legislation.

The debates on this topic continue in the ILO whose Plan of Action for the United Nations Decade for Women recommends the ILO to review and



revise protective legislation as necessary. In 1978 the ILO organised meetings and debates to discuss a revision of the night work conventions but failed to reach a consensus. Meanwhile the ILO is still engaged in research on this topic.

## 2. Prevention of Discrimination on the Ground of Maternity

The second paragraph of Article 11 of the 1980 Convention commits States Parties to take all appropriate measures to prevent discrimination on the grounds of maternity and to guarantee to women their effective right to work. States Parties agree to prohibit dismissal on the grounds of pregnancy or maternity leave or "discrimination in dismissals on the basis of marital status". They agree to introduce paid maternity leave or to accord women comparable social benefits. They agree that women who take maternity leave will be guaranteed reemployment in their jobs and that they will not lose seniority or any social allowances. States furthermore agree to "encourage" the development of the type of social services which allow parents to combine family responsibilities with economic activity. The article mentions in particular the establishment of a system of child care services. Finally special protection is to be accorded to pregnant women "in types of work proved to be harmful to them".

These proposals had been foreseen by article 10 of the Declaration on the Elimination of Discrimination Against Women however they still provided food for debate at the twenty-sixth session of the Commission. The first paragraph which relates to discriminatory practices in dismissals was readily agreed. The Belgian representative proposed the text as adopted minus the word "leave" following the phrase "pregnancy or of maternity". The French delegate added this word and thereby slightly changed the original meaning. Dismissal is prohibited on the grounds of (a) a woman becoming pregnant and (b) of her opting to take maternity leave. In the original text the first ground was included as also was the ground of maternity i.e. the fact of being a mother. It would seem that the 1980 Convention does not cover the case where a woman is dismissed on the basis that she has family responsibilities but only the case where she opts to take maternity leave and then to return to work. This would seem to be more restrictive than the opening sub-paragraph of article 11, which relates to discrimination on the basis of maternity, and of article 10 of the Declaration which also refers to maternity i.e. motherhood.



The question of "discrimination in dismissals on the basis of marital status" is an important one. Very often women were dismissed when they got married. This was the case in the past in the U.K. in both the teaching profession and the civil service. Article 11 does not outlaw dismissal on marriage but merely outlaws discriminatory practices. If both men and women are dismissed when they marry that is permissible under the terms of the Convention, what is outlawed is dismissal of one sex only.

The second paragraph, that relating to the provision of maternity leave and social benefits, was more contentious in the Commission. The United States' delegate was opposed to the inclusion of this type of provision which, in her mind, violated the principle of non-discrimination in that women were being accorded special treatment in receiving maternity leave and benefits when such treatment was not accorded to men. She also objected to the inclusion of the amendment, proposed by France and Hungary, to the effect that the costs of maternity leave should be borne by social security systems, pointing out that in her country social security systems provided only a minor part of welfare benefits. This amendment was, however, adopted by the Commission but deleted by the General Assembly. A further amendment was proposed by India who stated that the developing countries could not afford to introduce such a system although it was an aim of government policy for many Third World countries. She proposed to insert the words "progressively to introduce" and this amendment was accepted by the Commission but again deleted by the General Assembly.

The provision adopted by the Commission was, in fact, amended several times in later discussions. The Commission had wanted to insert the phrase "the periods of leave being treated as equivalent to periods of work actually performed" into article 11.2(b). This would have extended the scope of the article to the benefit of women and would have emphasised the fact that maternity leave was not to be treated merely as absence from work but in fact had a valued social function. This is in accord with the philosophy of the Commission which has, over the years, repeatedly stressed the social function of maternity as distinct from individual fulfillment. However this provision was deleted and does not appear in the Convention as adopted by the General Assembly. The Declaration on the Elimination of Discrimination Against Women envisages the provision of supportive social services, including

childcare facilities. The Commission on the Status of Women has repeatedly stressed the need to provide adequate child care facilities to enable women to exercise their right to work. The 1980 Convention seeks to enable "parents" to combine work with family responsibilities. This is a welcome contradiction to the spirit of the Convention which, as stated earlier, is intended only to cover discrimination against women. The provision stresses the need for parents (fathers as well as mothers) to assume the obligations relating to their children. This was the argument put forward by the Scandinavian countries and supported by many more. It is in accord with article 5 of the Convention, which recognises "the common responsibility of men and women in the upbringing and development of their children."

#### Part-time Employment

The original proposals for a Convention which provided the text discussed at the twenty-sixth session of the Commission provides for a further sub-paragraph which, related to

"(g) The entitlement of women who are employed for an incomplete working day or an incomplete working week, and who receive payment in proportion to the time worked or on the basis of output, to rights, privileges and benefits on the same basis as those granted to full-time workers".<sup>41</sup>

The problem of women who work part-time (and there is a large percentage of women who do work part-time) has long been a subject of discussion in the Commission. Strangely enough, however, the Commission omitted to debate paragraph (g) entirely and mention of part-time work is omitted in either the draft Convention adopted by the Commission or in the final text.

#### Health Care

The inclusion of a separate article relating to the elimination of discrimination in access to health care services was not foreseen by either the draft Convention prepared by the Commission on the Status of Women or in the draft drawn up by the Working Group discussed at that session. No government or NGO had suggested such a provision. The International Covenant on Economic, Social and Cultural Rights recognises "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" (article 12). However, this theme had not been taken up by the 1967 Declaration.

The 1975 World Conference of the International Womens Year did, however, highlight the fact of discrimination in access to health facilities<sup>42</sup>, and the Conference adopted three resolutions on the topic; Resolution 5 on Women and Health,<sup>43</sup> Resolution 9 on Protection of Maternal and Child Health<sup>44</sup> and Resolution 15 on Family Planning. The wording of the World Plan of Action is followed in Article 12 of the 1980 Convention. This article ensures to women equal access to health care services, including those relating to family planning and notwithstanding the principle of non-discrimination seeks to provide particular services to women in relation to pregnancy and child birth and adequate nutrition during pregnancy and lactation.

World Health Organisation recognises the particular difficulties relating to women and health and following the 1975 Conference decided "to review WHO's current and planned programmes, with a view to identifying and strengthening those elements that will affect women as participants in, and beneficiaries of, the activities designed to improve health."<sup>46</sup>

Subsequently WHO has focused attention on the importance of developing maternal child health programmes and discussed problems relating to these programmes in November, 1978, in the Division of Family Health in the WHO.<sup>47</sup> The mandates emanating from that Conference are subsequently being put into action by the WHO through its regional groups.

#### Other economic and social rights

Article 13 was added by the Third Committee of the General Assembly and is intended to provide for all the other economic and social rights which are not provided for in the other articles of this part of the Treaty. The particular rights envisaged there in no way relate to each other, the right to family benefits, to financial institutions and to recreational activities. The article is merely intended to rectify any omissions in the economic, social and cultural sphere.

#### Rights of Rural Women

The representative of F.A.O. introduced a discussion of the problems facing rural women during the debates on the draft Convention at the twenty sixth session of the Commission on the Status of Women. She felt that the Convention did not give sufficient attention to the acute problems facing women in rural areas, and hoped to see an expansion of the articles relating to economic and social rights, particularly to improve the situation of agricultural workers. She reminded the Commission of the resolution on women in agriculture adopted at the Mexico Conference and of two resolutions of the General Assembly adopted

at its thirtieth session, namely resolution 3523 (XXX) on women in rural areas and 3522 (XXX) on the improvement of the economic status of women for their effective and speedy participation in development. She also drew the attention of the Commission to a resolution adopted at the World Food Conference in 1974 which had stressed the need for the involvement of women in rural development.

The original proposals for the draft Convention discussed by the Commission did not contain any reference to the particular conditions of women in rural areas. It seems that there had been no proposal to insert a separate article or to treat rural women in any way differently from women living in urban areas. The initiative came from the representative of India who organised an informal working party of several states and presented a draft article in the course of the debate on the Convention.<sup>48</sup> In presenting the draft article the representative of India reminded the delegates that two thirds of women in the world lived in rural areas and she argued that for women in the Third World this meant isolation from political, social, cultural and economic activities. She stressed the need for community and extension services for women in this type of society to enable rural women to help themselves. The proposal met with immediate support from all delegates, the Soviet Union described it as a "wonderful initiative". The representative of France, whilst supporting the principle, thought that it would be more advisable to insert references to the particular problems of rural women throughout the Convention rather than dedicating a separate article to them. This point of view was not accepted by the Commission who preferred the Indian proposal for a separate article, and adopted the draft, with minor amendments, unanimously.

Article 14 of the 1980 Convention deals with the problems of rural women and follows quite closely the original Indian draft with only a few additions by the General Assembly. The first paragraph commits the States Parties to take into account both the particular problems of rural women and the significant role which they play "in the economic survival of their families including their work in the non-monetised sector", and, furthermore, they agree to take measures to ensure the application of the provision of the Convention to women in rural areas.

This provision is particularly interesting because it is the first



time that an international legal instrument has dealt with the problems facing rural women. It is perhaps an inevitable culmination of the work of the United Nations linking questions of development with those of women. It is also a manifestation of the impact of delegates of women from the Third World on the Commission on the Status of Women. In the developing countries the bulk of the population are employed in the agricultural sector and much of the work done in these areas is performed by women. For the main they exist outwith official statistics relating to G.D.P. and employment, and have very often been ignored in development planning.<sup>49</sup> This failure to take into account the work of rural women was recognised at the 1974 World Food Conference and reiterated at Mexico in 1975. The recognition of legal rights for rural women is therefore a milestone in the development of legal provisions which aim to improve the situation of the bulk of the world female population. The inclusion of Article 14 indicates a more realistic approach to the whole question of women's rights at the international level and shows a more flexible attitude in the definition of the scope of women's rights.

Article 14 commits the Contracting Parties to ensure to rural women the right: (a) to participate in development planning, (b) to have access to health services, including family planning, (c) to benefit from social security programmes, (d) to obtain training and education and to benefit from community and extension services to increase their technical proficiency, (e) to organise self-help groups and cooperatives in order to gain access to paid employment, (f) to participate in community activities, (g) to have access to financial facilities and technologies, and equal treatment in land reform projects, (h) to enjoy adequate living conditions.

Like many of the provisions relating to economic and social rights these provisions relating to rural women are programmatic. They lay down future policy for governments to follow in their development planning. In the main the article is intended to serve as a programme of action for the developing countries but nonetheless women in the so-called First World could undoubtedly benefit. The right to form cooperatives and to have access to agricultural credit and loans on the same terms as men could well provide the basis for an economic independence for women from countries at different levels of development. Nonetheless the article is intended to improve the situation of rural women in the developing countries and, as such, is something of a major break-through for women in those areas.



## Civil Rights

The definition of the scope of 'civil rights' is rather difficult. In international human rights law civil rights go along with political rights to make up the body of law which relate to the citizen's relationship with his State. Thus the International Covenant on Civil and Political Rights sets out the right to life and security of the person, the rights of persons in procedures before the Courts, the right to privacy, freedom of thought and conscience, the right to assemble and join organisations, the right to marry and found a family and the right to be treated equally before the law. All these rights are guaranteed to men and women equally.

The 1980 Convention does not cover such a wide range of issues. Article 15 focuses on four areas where women have traditionally been subject to discriminatory treatment. First of all women are accorded equality with men before the law. This provision is particularly important to married women who might suffer civil death on marriage but it is important to all women as, in the past, some legal systems have not always recognised women as being legal persons.<sup>50</sup>

The second paragraph of article 15 accords to women an identical legal capacity to men and particularly the right to conclude contracts and administer property. Women are to be treated in the same way as men in all legal proceedings in courts and tribunals. The delegate of the Government of Belgium proposed the inclusion of this clause and the Belgian proposal, as amended by Sweden, was adopted by the Commission. The original draft text had merely recognised to men and woman an equal legal capacity. This draft was criticised as being imprecise and likely to give rise to differing interpretations. The Government of Denmark suggested setting out which rights were envisaged and particularly suggested the three areas of contract, property rights and equality of treatment in legal proceedings.<sup>51</sup> It is interesting to note that the International Covenant on Civil and Political Rights does not recognise as a right the ability to conclude contracts and administer property. Neither are these provisions mentioned in the Racial Discrimination Convention which does, however, provide for the "right to own property alone as well as in association with others." The 1980 Convention does not provide for the recognition of a right in this respect but only that where legal systems do recognise the capacity of individuals to contract or to administer property then that right should be afforded equally to men and women. This is particularly

important for those legal systems where women are unable to enter into contracts without the consent of father or husband or where the property of a woman passes into the ownership of the husband on marriage. Such practices are prohibited by article 15.

The third paragraph of article 15 relates to those "contracts and all other private agreements of any kind with a legal effect" directed at restricting the legal capacity of women. Such contracts or agreements are to be deemed null and void. The United Kingdom supported by India proposed the deletion of this article at the twenty-sixth session on the grounds that it was obscure and could be given an unacceptably wide interpretation. Presumably the kind of contract which is envisaged is one entered into by a women and surrendering her legal capacity to some other person. Thus some forms of matrimonial regimes which provide for the husband to administer the property of the wife would be prohibited as would agreements registered before a lawyer restricting the capacity of a women to enter into contracts of sale or hire purchase without the consent of her spouse. However, the scope of the article is unclear and there is no indication from the Convention itself or from the reports what kind of behaviour was envisaged.

Paragraph 4 provided some difficulty to countries with an Islamic legal system. This paragraph provides that women shall have equal rights in the "law relating to movement of persons and the freedom to choose their residence and domicile". At the twenty-sixth session the representative of Egypt explained that according to the law of the Koran the husband must choose the site of the matrimonial home and that the wife has the same domicile as the husband. However, she added, Egypt intended to reform the law on this question and could therefore accept article 15.<sup>52</sup> The Indonesian delegate explained that the majority of the Indonesian population was subject to Islamic law which limited the freedom of the wife to chose her residence. However, Indonesian legislation provided that the choice of the matrimonial home should be by common accord of the spouses. Iran also stated that in that country women were not granted rights relating to freedom of movement or to the choice of their residence. However, the text was approved by the majority of the Commission by 20 votes to 0 with 3 abstentions.

In the 1967 Declaration civil rights were joined with those relating

to rights in the family and proved the most difficult of all the articles of the Declaration to gain agreement. Equal civil rights were granted to women but with a stipulation that this would be "without prejudice to the safeguarding of the unity and harmony of the family". There was strong opposition to this amendment weakening as it does the force of the article by placing the burden of the maintenance of the family structure on the suppression of women and it was adopted by only a small majority (40 votes to 36, with 19 abstentions).<sup>53</sup> No similar clause is contained in the 1980 Convention. On the contrary, the preamble to the Convention notes that "a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality of men and women".

#### Family Law

Following the provisions which relate to the civil rights of women are those which concern family law. The inclusion of provisions relating to the family, even in the most general terms, is something of a break through in the international recognition of women's rights. The Commission on the Status of Women has worked on studies and recommendations on various aspects of family law for the past thirty years but agreement as to points of principle seemed to be too difficult to reach. Even at the last moment in discussions in the Third Committee of the General Assembly representatives of Islamic States attempted to amend the Convention so as to conform to the principles of Islamic Law.<sup>54</sup> The representative of Morocco stated in respect of the family that the roles of men and women "were not 'traditional' but had arisen in the deep consciousness of the human race" and she argued therefore that to provide for equality of rights for men and women would affect "the psychic and moral balance of children". International law, she argued, should confine itself to finding the largest common denominator amongst States and must allow States to retain their national laws. However for lack of time these interesting arguments were not pursued. The 1967 Declaration had paved the way for the development of International Legal Standards as had the adoption of the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery and the 1962 Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. Despite the many recommendations of the Commission these two were the only legal instruments relating to family law.

The Supplementary Convention addressed itself to the problem of the free and full consent of intending spouses. The problem envisaged by the authors of the Convention was that of the bride price where a female child might be sold to her fiance's family and thereby became a virtual slave in that household, or the further situation where a female, wife, child or widow was sold in marriage on payment of a fee or for some other consideration, or the spouse was inherited on the death of her husband. In order to bring about an end to these practices States Parties undertook to prescribe a minimum age for marriage, to encourage the use of facilities whereby spouses could declare their free and full consent to marriage and to encourage the registration of marriages (article 2). The Convention on Consent elaborated these obligations further and prescribed that, (a) free and full consent to a marriage must be expressed by the parties before competent authorities, (b) States must specify a minimum age for marriage and (c) all marriages must be registered. A Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages specified a minimum age of 15 for children of both sexes. The obligations contained in both these Conventions are reiterated in article 16 of the 1980 Convention which, like the Convention on Consent, fails to specify the minimum age for marriage. The 1980 Convention goes a little further in that it prohibits betrothal of a child but no definition of "child" is given.

In the original text of the Working Group the words "child marriage and the betrothal of young girls before puberty" had opened this paragraph. However, an amendment proposed by the United States was accepted and the more general words "betrothal and marriage of a child" were adopted.

The first paragraph of article 16 therefore breaks new ground for international human rights law. It provides that States Parties will take measures to eliminate discrimination "in all matters relating to marriage and family relations". In particular States Parties must guarantee to men and women the same rights as to (a) entry into marriage; (b) choice of a spouse and entry into marriage with free and full consent; (c) rights and responsibilities in marriage, and in its dissolution (divorce or separation); (d) rights as parents, whether married or not; (e) rights to decide on the number and spacing of children and to have access to family planning; (f) rights in respect of guardianship, wardship, and adoption of



children; (g) personal rights such as the right to choose a family name or occupation and (h) rights in respect of property.

The rights specified in the 1980 Convention go well beyond those envisaged by the 1967 Declaration which dealt only with the question of consent to marriage and choice of partner, equal rights during marriage and its dissolution and equal rights and duties in respect of children. Some of the provisions of article 16 are undoubtedly contentious for some States and it is in respect of this article that it is to be expected that the majority of reservations will be lodged.

During the twenty-sixth session some of the problem areas were revealed during the debate.<sup>55</sup> Paragraph (c) which deals with equal rights at the dissolution of marriage was unacceptable to the representatives of Indonesia and Iran. Both these countries stated that women did not have the right in Islamic Law to divorce their husbands, divorce being a male prerogative. They could not therefore accept paragraph (c). Paragraph (d) as originally proposed was unacceptable to Egypt, Indonesia and Iran. The original draft read "equal rights and duties with men in matters relating to their children except in the case of her being a single parent". These three countries objected to the inclusion of the word "single parent" pointing out that in Islamic countries there was no possibility of a single woman becoming a parent as this violated all the cultural mores of Islamic societies. They accordingly found the phrase to be objectionable. Paragraph (d) was accordingly amended to insert the words "whether married or not". The General Assembly later amended this to the neater "irrespective of marital status". The Islamic countries could accept this amendment which they could read as meaning "whether married or divorced". The distinction is merely one of an appropriate choice of words.

The original draft of the Convention did not contain a specific reference to the right of choice of size of family. The representative of India proposed the inclusion of this clause (e) which was adopted unanimously. In the adoption of this clause can be seen an interesting development in questions relating to family planning. The 1967 Declaration merely provided an oblique reference to the right to "access to educational information to help in ensuring the health and well-being of families". The 1980 Convention is more direct. Rights in the family include the



right to choose the number and spacing of children and access to the means to enable people to exercise this right. The representative of Colombia was the only delegate to express opposition to this clause on the ground that Colombia was a Catholic country and family planning was illegal. It might be that other Catholic countries will make reservations on this point.

The Commission agreed on the insertion of a further paragraph in this article which related to the rights of single parents and the protection of children born out of wedlock. The Soviet Union had preferred to include an article relating to the rights of single mothers but for the reasons outlined above in respect of paragraph (d) this proved unacceptable. Strangely enough the representative of Indonesia accepted the term "single parents" in this context although Iran retained its reservations. A more fundamental objection came from those delegates who stated that the Convention should not deal with the question of discrimination against the child which they felt to be outwith the framework of the Convention. The Commission as a whole voted to retain the clause however which was subsequently deleted by the General Assembly.

The rights enshrined in article 15 are rather general but, as noted above, agreement on specific issues is difficult in questions relating to the family. The delegate of Morocco was quite right to insist in the Third Committee that public international law had its limitations as a tool for defining standards of private law which would be acceptable to all States. It is certainly true that a Convention like the 1980 Convention which attempts to deal with the whole question of women's rights would not be the most suitable instrument for defining specific legal standards of family law. The issue is complex enough at each individual national level. Nonetheless the importance of article 16 must not be overlooked in the context of a Convention which commits the States Parties to modify their social and cultural patterns in the relationships of men and women. Family law very often is one of the means of defining those very roles and therefore granting women equal rights in the family structure assumes a very great importance indeed.

The Committee on the Elimination of Discrimination Against Women

The Convention provides for the establishment of a Committee on the Elimination of Discrimination Against Women (hereinafter the Committee), which, at the time of entry into force of the Convention, will consist of 18 and after ratification or accession by the thirty-fifth State, 23 "experts of high moral standing and competence in the field covered by the Convention". These experts are to be chosen by the Contracting Parties and will serve in a personal rather than a governmental capacity although consideration is to be given in the composition of the Committee to the need to ensure both equitable geographical distribution and the representation of diverse legal systems.

The Members of the Committee are to be elected from a list of nominations put forward by the States Parties. Each State has the right to nominate one of its own nationals. A secret ballot shall then decide from amongst the nominations on the membership of the Committee.

The original draft text prepared by the Working Party for the twenty-sixth session of the Commission did not envisage the establishment of this type of Committee, although two alternatives were suggested. The original scheme discussed (article 21) was that reports on the implementation of the Convention would be discussed by the Commission itself which in turn would report to ECOSOC.<sup>56</sup> As an alternative to this proposal it was suggested (alternative article 21) that a Committee of experts be established consisting of persons of high moral standing and impartiality, preferably members of the Commission on the Status of Women, elected by secret ballot from nominations by States Parties. The Belgian draft also suggested the establishment of a Committee of experts, again preferably, from among the membership of the Commission on the Status of Women.

Both the alternative text and the Belgian draft were modelled on the machinery established to monitor the International Convention on the Elimination of all Forms of Racial Discrimination and the Belgian draft articles follows almost word for word article 8 of that Convention.<sup>57</sup>

The one difference being that the experts envisaged in the Belgian proposal would preferably be drafted from the Commission on the Status of Women.

During the debates on this article there appeared deep divisions of opinion as to the nature of the institutions which should be established and several dozen amendments were proposed in order to refine the draft proposal or to reach a compromise between conflicting views.<sup>58</sup>

The Belgian view that it was desirable to establish a Committee of independent experts was supported by several delegates. The arguments in favour of this were of two kinds. First the question of independence was stressed. The Commission on the Status of Women was composed solely of government representatives, they could not adopt as impartial a stand as a committee of experts would. The counter argument to that was put by the Soviet Union who could not see any clash of interests in someone appointed by a government but who had also some expertise in the field of women's issues. The second type of argument related to the capacity of the Commission on the Status of Women to deal with the reports. Some representatives felt that the Commission was already overburdened with work and would not be able to give sufficient attention to them. Others feared that if an independent committee be set up this would be detrimental to the Commission whose importance might thereby be reduced. On this point it is worth noting that at no time did the Commission discuss the possible overlap in reporting procedures between that in the proposed Convention and the already existing machinery which has been described in a previous chapter.<sup>59</sup> It was not discussed whether, for example, States who ratified the Convention should continue to submit reports on the implementation of the Declaration. In due course there will undoubtedly be some duplication of effort in these reporting procedures which may result in the committee receiving ill-prepared reports.

An amendment to the alternative text was proposed by the International Federation of University Women who suggested replacing the phrase "experts of high moral standing" with the words "experts of high competence", on the grounds that there is no way that anyone can judge a person's moral qualifications.<sup>60</sup> The validity of this argument was not taken up by the Commission which seemed to prefer to retain the phraseology which has been incorporated into several international texts.

The possibility of electing persons to the Committee from amongst the membership of the Commission on the Status of Women was rejected ultimately by the General Assembly but the Commission itself did not reject the idea. The text which it submitted to the General Assembly for consideration proposed not that an independent Committee be established but an ad hoc group of 10 to 15 persons be established by the Commission on the Status of Women itself. This ad hoc group would be chosen from a list

of two categories of persons; Members of the Commission who are nationals of States Parties to the Convention, and non Members of the Commission who are nationals of States Parties to the Convention. Members of the group were to serve in their personal capacities and not as government representatives. The group was to report to the Commission on the Status of Women. This proposal was rejected by the Third Committee who chose to establish a Committee on the Elimination of Discrimination Against Women along the same lines as that of the Committee set up by the Race Convention as described above.

#### The Election of the Committee

Article 17 of the Convention also provides for the elections to the Committee which are to take place six months after the date of entry into force of the Convention. Three months before the election is due the Secretary General will request each State Party to submit the name of its nominee and the Secretary General will then prepare a list of names indicating their nationality. The election will take place at United Nations headquarters at a meeting at which two thirds of the States Parties must be represented. Nominees who receive the highest number of votes and an absolute majority of States present and voting will be elected. They will serve a term of four years although half of those elected in the first election will serve only two years, these members will be chosen by lot. The same procedures will be followed for the election of the 5 additional members following the thirty-fifth ratification or accession. In the case of casual vacancies the State Party whose expert has ceased to be a member will appoint another of its nationals. This appointment is subject to the approval of the Committee. The Member of the Committee will receive such emoluments as the General Assembly may decide and the Secretary General will provide the necessary staff and facilities for the effective performance of the functions of the Committee. These two latter points are quite interesting points to note. Although the 1980 Convention was adopted by Resolution of the General Assembly the Convention nonetheless is an instrument of international law independent of the United Nations. It binds only States Parties to it and the Committee is to monitor the implementation of their obligations. However, the General Assembly is still linked with the Convention both through these financial ties and in the actual reporting procedure itself. Again these procedures mirror those in the Committee on the



## Elimination of Racial Discrimination.

### The Functions of the Committee

The task of the Committee is to consider the reports submitted to it "on the legislative, judicial, administrative or other measures which they (the States Parties) have adopted to give effect to the provisions" of the Convention and on progress made. These reports are to be submitted by States Parties to the Convention within a year of the Treaty coming into force for that State and thereafter at least once every four years or whenever the Committee requests information. The content of the report is only vaguely defined. Article 18 states that the reports "may indicate factors and difficulties affecting the degree of fulfillment of obligations".

The Committee will meet for not more than two weeks annually to consider the reports and the Committee will make an annual report to the General Assembly via ECOSOC on its activities. The Committee is able to make "suggestions and general recommendations" based on the reports. The Secretary General will transmit these reports to the Commission on the Status of Women (article 21).

Following the analysis of the Convention on the Elimination of All Forms of Racial Discrimination by Schwelb<sup>61</sup> it is possible to define what is meant by article 21 of the 1980 Convention by the phrase "suggestions and general recommendations". In the context of the Race Convention Schwelb suggests that the Committee is entitled to address general recommendations to all the States Parties and to make specific suggestions to individual States. As the wording of the 1980 Convention is exactly the same as that earlier Convention there is no reason to suppose that the meaning will be different. What is uncertain is whether the Committee may address general recommendations to the General Assembly e.g. that the Assembly prepare a new international instrument to further elaborate some aspect of the Convention. Schwelb suggests that the Committee may address such recommendations only to the States Parties but a more liberal interpretation would give the Committee powers to recommend action to the General Assembly.

In the draft Convention presented to the General Assembly to the Commission on the Status of Women it had been proposed that States Parties present reports every two years on the implementation of their obligations. This would correspond to the provisions of the Race Convention. The Commission on the Status of Women had also suggested



that the report s might be drawn up with the aid of any national machinery which had been established to promote the advancement of women. The ad hoc Group suggested by the Commission would make its report to the Commission on the Status of Women who would in turn transmit the report (with its own comments) to ECOSOC for transmission to the General Assembly. Such a procedure adds a further stage i.e. discussion and comment by the Commission on the Status of Women, the principle of which had been rejected by certain members of the Commission who felt it undesirable that the reports of the States Parties to the Convention were to be discussed by Non Parties.

One amendment proposed by a Group of NGOs which was rejected by the Committee was that a system be established which would enable NGOs to present information to the Committee. The group submitted a proposal which would give NGOs the right to submit information and recommendations relating to the observance of the provisions of the Convention.<sup>62</sup> However, this amendment was not accepted.

The system of reports is the only implementation procedure foreseen in the 1980 Convention. Unlike the International Convention on the Elimination of All Forms of Racial Discrimination which provides elaborate machinery for one State Party to instigate a complaint against another (articles 11-13) and the possibility for an individual to bring a complaint against a State Party (article 14), the Convention on the Elimination of Discrimination Against Women places all the emphasis on a reports procedure. There is no possibility for a woman who wishes to bring a complaint before the Committee to do so, nor may one State complain against another. There is no indication in any of the reports which would explain this omission which might seem anomalous in the light of other existing comparable Conventions such as the 1965 Convention on Race, or the 1966 International Covenant on Civil and Political Rights. However, there is no hard and fast rule as to the kinds of measures of implementation which ought to be included in a human rights Convention. The 1966 Covenant on Economic, Social and Cultural Rights, and the 1960 Convention on the Elimination of Discrimination in Education both rely only on a reports procedure for their implementation.

Reports procedures of the type adopted by the United Nations are severely limited in their impact. As discussed above reports procedures must be

well planned and give firm guidelines to States as to what information exactly is required. They require adequate analysis and some form of follow-up if they are to succeed. The reports procedure foreseen in the Convention might prove to be of limited value in ensuring the implementation of the objectives of the Convention unless the Committee establishes a coherent scheme for reports. It is for this reason that it is disappointing that the Convention does not provide for any other machinery.

#### Final Provisions

The Convention is open for signature and accession by all States (article 25) unlike the two International Covenants on Civil and Political Rights, and Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination which all provide that signature is open for "any State Member of the United Nations or member of any of its specialised agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been (is) invited by the General Assembly of the United Nations (articles 48, 26, 17 respectively). The Convention on the Political Rights of Women is open to signature and ratification by all Members of the United Nations or those States invited by the General Assembly to become parties to the Convention (Article IV).

The Working Group of the Commission on the Status of Women did not adopt this traditional formula preferring merely to declare "This Convention shall be open for signature by all States. Any State which does not sign the Convention before its entry into force may accede to it at any time." This formula was criticised by several States which all pointed out that a ratification clause was necessary in the Article. Byelorussia, the German Democratic Republic, the Federal Republic of Germany, and the USSR all believed that the wording should be modelled on that of the international instruments named above, whilst the UK stated explicitly that the article should follow article 17 of the Racial Discrimination Convention.

During the twenty-sixth session Denmark proposed an amendment to the wording of the article put forward by the Working Group so that the Draft Convention appeared as in the final text adopted by the General Assembly. It was not suggested during the debate to limit the countries which might sign or accede to the Convention.

The Convention will enter into force 30 days after the deposit of the twentieth instrument of ratification or accession (article 27). The Working Group of the Commission on the Status of Women had left open the number of ratifications necessary to bring the Convention into force. At the twenty-sixth session the U.K. preferred to see the number set at 27 (as in the Racial Discrimination Convention) or at 35 (as in the International Covenants). The USA suggested that ratifications should be necessary from at least one third of the membership of the United Nations. Hungary and the Soviet Union preferred as low a figure as possible so as to bring the Convention into force at the earliest possible date. They suggested a figure of 20 and the article was adopted without a vote.<sup>63</sup>

Like the Convention on the Elimination of All Forms of Racial Discrimination the 1980 Convention does not contain a territorial application clause or a Federal States clause. Such provisions were never suggested or discussed.<sup>64</sup>

Article 26 provides for the revision of the Convention by request of any Contracting Party. The General Assembly will decide on the steps to be followed in the event of such a request. The wording of this article follows that of the Racial Discrimination Convention. Reservations to the Convention are permissible under the terms of article 28. Reservations incompatible with the object and purpose of the Convention "are not however permitted." This standard of permissible and impermissible reservations is the same standard as contained in the Convention on Racial Discrimination and is the standard developed by the International Court of Justice in its Advisory Opinion on Genocide.<sup>65</sup> In the case of the Racial Convention a reservation is considered incompatible if two thirds of the States Parties to the Convention object to it. However the 1980 Convention does not state who is to decide on the compatibility or otherwise of reservations. Presumably if a State wishes to object to the reservation it must follow the dispute procedure in article 29. Otherwise the compatibility of reservations must be deemed to be at the discretion of the reserving State.

Originally the Working Group of the Commission on the Status of Women did not envisage the need for a clause relating to reservations and it was Denmark which proposed the text during the twenty sixth session of the Commission. Denmark referred to article 19 of the Vienna

Convention on the Law of Treaties which provides for the possibility of reservations. Some representatives did not see the need for a reservation clause but the Danish proposal was accepted without a vote. The Danish amendment followed the wording of the Racial Discrimination Convention but this wording was simplified by the General Assembly. Disputes arising concerning the interpretation or application of the 1980 Convention shall be settled by negotiation, or at the request of one party by arbitration. Failure to agree at arbitration allows any one State to refer the dispute to the International Court of Justice (article 29). This procedure follows that provided for in the Racial Discrimination Convention. However, the 1980 Convention, unlike the 1966 Convention, explicitly allows any State Party to make a reservation to this provision. This whole article was inserted by the Third Committee of the General Assembly.

Article 23 of the 1980 Convention provides for the relationship between it and other legal provisions relating to the status of women. It provides that nothing in the Convention shall affect any provisions that are more conducive to the achievement of equality between men and women, whether these provisions be domestic or part of an international treaty or agreement. This type of provision was proposed by the Working Group and adopted by the Commission on the Status of Women with only minor disagreements as to wording. The provision is important given the existence of several international conventions relating to the status of women and the growing amount of domestic legislation in this area.

#### Observations

1. The 1980 Convention, like the 1966 Convention on Race is "maximalist".<sup>66</sup> This means that the Convention aims to eliminate all forms of discrimination against women whenever or wherever they occur. Furthermore, the Convention aims to achieve a type of society throughout the world in which women will be treated on equal terms with men, a society in which traditional customs and prejudices will be questioned and new egalitarian forms of behaviour will be established. Implementation of all the principles in the Convention will entail extensive legislative changes in most countries. It will also entail the pursuit of policies and programmes at the national level to ensure the effective implementation of such legislation. It will demand from ratifying States an extensive commitment to women's rights and fundamental, some would say revolutionary, changes in the organisation of all societies. If States take their obligations



seriously the Convention might provide for the initiation of many new policies and changes and will provide a useful instrument for women in their struggle for the achievement and recognition of their rights.

2. The Convention has both strengths and weaknesses. One of its strengths is in the elaboration of the principle of equal rights for men and women in areas which were not previously regulated by international laws. Such an area is in family relationships or in the rights of rural women, a singularly oppressed group whose position had never been contemplated as a subject for international regulation. Further strengths lie in the determination of the language of the Convention. Gone are the caveats about the need to protect the family at the expense of women's rights and gone too are the exemption clauses (in the main) which allow States to provide exceptions to the principle of non-discrimination in education, at work or in the family. The force of the language in this respect is remarkable for its strength of commitment. The Convention demands the same rights, the same standards, the same treatment for men and women. A weakness of the Convention is in the machinery for enforcement. The establishment of an independent committee to monitor the implementation of the obligations undertaken by the States Parties is to be welcomed. However reporting procedures alone have not proved effective in encouraging compliance with international standards. It is discouraging to note that similar machinery to that provided by the 1966 Race Convention and providing for a possibility of complaints to be made and investigated was not considered for inclusion in the 1980 Convention. Such machinery would have greatly improved the enforcement procedures and encouraged States to improve their performance.

3. The Convention is largely a statement of general principles rather than specific obligations. This is inevitable given the nature and purpose of the Convention which was to put into legal form the provisions of the 1967 Declaration. However there are some anomalies in the Convention when the provisions appear perhaps to be over specific. Article 16.1(g), for example, provides for the same rights of husband and wife to choose a family name and article 13 mentions the equal rights of women to obtain bank loans and mortgages. However on the



whole the Convention seeks to lay down guidelines and principles rather than specific obligations.

4. One minor disappointment might be noted in relation to the preamble. Whilst acknowledging the fundamental importance of issues of development, disarmament and peace, a Convention on the Elimination of Discrimination Against Women is perhaps not the place for statements of the kind to be found in the preamble. For women it is important that their rights be recognised in all political systems, irrespective of the merits of those systems, and there is a danger that the Members of the United Nations will begin to make the achievement of women's rights contingent on political conditions. From the point of view of women this would be disastrous. It is perhaps a hopeful sign that the body of the Convention does not contain provisions of this type of political statement.

5. Finally the question should be raised as to whether the Convention will attract support. The possibility of reservations being made to specific provisions of the Convention will undoubtedly permit some States who would not otherwise be able to do so to ratify the Convention. There are likely to be many reservations to the Convention and in the absence of machinery for evaluating them some of these reservations might well strike at the very meaning of the Convention. It is likely that reservations will be made to several articles, notably to the article on family law, but also to that relating to nationality, civil law and education. However, the fact that the Convention was adopted during the mid Decade Review Year might encourage States to ratify.

## APPENDIX

### RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[(on the report of the Third Committee (A/34/830 and A/34/L.61)]

#### 34/180 Convention on the Elimination of All Forms of Discrimination Against Women

##### The General Assembly

Considering that one of the purposes of the United Nations, as stated in Articles 1 and 55 of the Charter, is to promote universal respect for human rights and fundamental freedoms without distinction of any kind, including any distinction as to sex,

Recalling the proclamation by the General Assembly, in its resolution 2263 (XXII) of 7 November 1967, of the Declaration on the Elimination of Discrimination against Women.

Taking into account the conventions, resolutions, declarations and recommendations of the United Nations and of the specialised agencies designed to eliminate all forms of discrimination and to promote equal rights for men and women,

Noting, in particular, its resolution 33/177 of 20 December 1978 concerning the drafting of a convention on the elimination of discrimination against women,

Considering that discrimination against women is incompatible with human dignity and the welfare of society and constitutes an obstacle to the full realization of the potentialities of women.

Affirming that women and men should participate and contribute on a basis of equality in the social, economic and political processes of development and should share equally in improved conditions of life.

Recognising that the welfare of the world and the cause of peace require the full participation of both men and women in society,

Convinced that it is necessary to ensure the universal recognition in law and in fact of the principle of equality of men and women,

1. Adopts and opens for signature, ratification and accession the Convention on the Elimination of All Forms of Discrimination against Women, the text of which is annexed to the present resolution;

\* (The text of the Convention is annexed to U.N. General Assembly Resolution 34/180 of December 18, 1979. The Resolution was adopted by a vote of 130 in favour to none against, with 10 abstentions. The Convention will be opened for signature on March 1, 1980.)

2. Expresses the hope that the Convention will be signed and ratified or acceded to without delay and will come into force at an early date;
3. Requests the Secretary-General to present the text of the Convention to the World Conference of the United Nations Decade for Women for its information;
5. Requests the Secretary-General to submit to the General Assembly at its thirty-fifth session a report on the status of the Convention under an item entitled "Status of the Convention on the Elimination of All Forms of Discrimination against Women".

107th plenary meeting  
18 December 1979

#### ANNEX

#### Convention on the Elimination of All Forms of Discrimination against Women

##### The States Parties to the present Convention

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity of and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights 1/affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenant on Human Rights 2/ have the obligation to ensure the equal right of men and women to enjoy all economic, social, cultural, civil and political rights,  
Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialised agencies promoting equality of rights of men and women,

1/ General Assembly resolution 217-A (III)

2/ General Assembly resolution 2200 A (XXI), annex.

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of apartheid, of all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, and in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role

of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

## PART I

### Article I

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

### Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;



- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

#### Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

#### Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

#### Article 5

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

#### Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

### PART II

#### Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, and in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

#### Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

#### Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

### PART III

#### Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality.
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

#### Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure on a basis of equality of men and women, the same rights, in particular:
  - (a) The right to work as an inalienable right of all human beings;
  - (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
  - (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

#### Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connexion with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

### Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular;

- (a) The right to family benefits;
- (b) The right to bank loans, mortgages and other forms of financial credit;
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.

### Article 14

1. States Parties shall take into account the particular problem faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right;

- (a) To participate in the elaboration and implementation of development planning at all levels;
- (b) To have access to adequate health care facilities, including information, counselling and services in family planning;
- (c) To benefit directly from social security programmes;
- (d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
- (e) To organize self help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.



## PART IV

### Article 15

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

### Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
  - (a) The same right to enter into marriage;
  - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
  - (c) The same rights and responsibilities during marriage and at its dissolution;
  - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children to be paramount;
  - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
  - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
  - (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

## PART V

### Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to the equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.
7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.
9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

#### Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect;
  - (a) Within one year after the entry into force for the State concerned; and
  - (b) Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

#### Article 19

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.

#### Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

#### Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.
2. The Secretary-General shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

#### Article 22

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

### PART VI

#### Article 23

Nothing in the Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- (a) In the legislation of a State Party; or
- (b) In any other international convention, treaty or agreement in force for that State.

#### Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

#### Article 25

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

#### Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

#### Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

#### Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.



#### Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

#### Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

## CHAPTER EIGHT

### NOTES

1. The text of the Convention is to be found in the Appendix to this Chapter.
2. U.N. Docs. E/CN.6/573 and E/CN.6/574 .
3. U.N. Doc. E/CN.6/591 .
4. U.N. Doc. E/CN.6/589 .
5. U.N. Doc. E/CN.6/591 .
6. U.N. Doc. E/CN.6/591 Add. 1 .
7. U.N. General Assembly Official Records 34th session 1979. U.N. Docs. A/C.3/34/S.R. 70 - 73. Compare this with the 43 meetings of the Third Committee held to discuss the draft Convention on the Elimination of All Forms of Racial Discrimination.
8. General Assembly resolution 3010 (XXX), 1972.
9. U.N. Doc. E/Conf. 66/34.
10. General Assembly resolution 3521 (XXXIII), 1975.
11. U.N. Docs. A/C.3/34/S.R. 70-73.
12. This is the position of the United Kingdom Government. See U.N. Doc. A/C.3/34/S.R.71. And also the statement of the UK Government to the General Assembly at the adoption of the Convention in A/23/830.
13. U.N. Doc. E/5909.
14. U.N. Doc. A/Conf. 94/20.
15. For a comparative discussion see Folke Schmidt (ed), Discrimination in Employment (1978).
16. U.N. Doc. E/CN.6/591.
17. U.N. Doc. E/CN.6/608.
18. U.N. Doc. A/C.3/34/S.R.72.
19. U.N. Doc. E/CN.6/591.
20. U.N. Doc. E/5909.
21. Ibid.
22. Egon Schwelb "The International Convention on the Elimination of All Forms of Racial Discrimination". 15 I.C.L.Q. (1966).996.

23. Ibid. p.1015.
24. U.N.Doc. E/CN.6/591.
25. Ibid.
26. U.N.Doc. E/CN.6/591 and E/5909.
27. U.N.Doc. E/5909.
28. 533 p.2d. 1152 (1976). For a discussion of this case and its implications see Iredell Jenkins, Social Order and the Limits of Law (1980) p.268 ff..
29. Slavery Convention (1926), Protocol Amending the Slavery Convention (1953), Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices. Similar to Slavery (1956), Abolition of Forced Labour Convention (1957), Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949).
30. For text see United Nations, Human Rights A Compilation of International Instruments of the United Nations (1973) p.90.
31. U.N. Doc. E/Conf.66/34.
32. U.N.Doc. E/CN.6/591.
33. General Assembly resolution 3010, 1972.
34. U.N. Doc. E/Conf. 66/34.
35. Ibid. p.21 ff..
36. U.N. Doc. E/5909 p.108 ff..
37. U.N. Doc. H/Conf. 94/8.
38. See below the discussion of Article 14 relating to rural women.
39. U.N. Doc. E/CN.6/591.
40. U.N. Doc. E/5909.
41. U.N. Doc. E/CN.6/591.
42. U.N. Doc. E/Conf. 66/34.
43. Ibid. p.76.
44. Ibid. p.80.
45. Ibid. p.87.
46. U.N. Doc. E/CN.6/629.

47. U.N. Doc. A/Conf. 94/20.
48. U.N. Doc. E/CN.6/L.687. The proposal was put forward jointly by Egypt, India, Indonesia, Iran, Pakistan and the United States of America.
49. U.N. Doc. A/Conf. 94/8.
50. See, for example, A. Sachs and J. Hoff Wilson, Sexism and the Law 1978
51. U.N. Doc. E/CN.6/591.
52. U.N. Doc. E/CN.6/S.R.650.
53. U.N. Equal Rights for Women - A Call to Action (1973).
54. U.N.Docs. A/C 3/34/S.R.70 - 73.
55. U.N. Doc. E/5909.
56. U.N. Doc. E/CN.6/591.
57. U.N. Doc. E/CN.6/591/Add.1. The Committee on the Elimination of Racial Discrimination was itself modelled on the procedures established by the (then) Draft Covenant on Civil and Political Rights. Schwelb, op.cit. in note 22 above.
58. U.N. Doc. E/CN.6/608.
59. The Belgian draft did contain a provision on this point. Article 22.1 (a) stated that "where relevant information has previously been furnished by any State Party to this Convention it will not be necessary to reproduce that information but a precise reference to the information so furnished will suffice". This proposal was not discussed.
60. U.N. Doc. E/CN.6/591.
61. Schwelb, op.cit. in note 22 above.
62. U.N. Doc. E/CN.6/NGO.272 and Add.1.
63. The Convention on the Political Rights of Women required ratification by only 6 States to enter into force.
64. Schwelb, op.cit., in note 22 above.
65. Ibid.
66. Ibid.

## C O N C L U S I O N



## CONCLUSION

Beth Larsen, in her study of the Convention on the Political Rights of Women, suggests that the Commission on the Status of Women was set up to quiet the demands of certain female governmental delegates and women's NGOs in the earliest days of the United Nations.<sup>1</sup> The idea being that by giving the women a separate organisation the rest of the United Nations could concentrate on the "real" work of the United Nations, collective security and the furtherance of international cooperation. The earliest years of the Commission were marked, accordingly, by a certain sense of isolation away from the mainstream of activities of the United Nations. In one sense this isolation was of undoubted benefit to the women enabling them to delimit clear areas for international action and to lay down international guidelines in those areas where international treaties were suitable. This resulted in the Convention on the Political Rights of Women (which has attracted more ratifications than any other international human rights treaty), the Convention on Nationality and the beginnings of an international family law with the Convention and Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage. The Commission was able to carry on this work without any other distractions away from its own definition of its purposes.

Isolation does have its disadvantages however. Helvi Sipila, now Assistant Secretary General to the United Nations and former delegate to the Commission, articulated some of the major disadvantages during the twenty-sixth session. In her opening speech she pointed out that until relatively recently the Commission had been out of touch with developments occurring elsewhere in the United Nations system. Therefore, she concluded, for a long time the members of the Commission had largely been talking to themselves. She welcomed the fact that activities for women had been linked with the central issues concerning the United Nations, development and peace.<sup>2</sup>

It is undoubtedly true that the Commission on the Status of Women has become increasingly caught up in activities which are well outside the definition of its competencies as these were originally defined by the nuclear sub-commission in 1946. Largely this is due to the influence of the United Nations Secretariat who have dragged the Commission into the larger U.N. scene. It is also due to the

influence of Third World countries using their influence in the General Assembly and ECOSOC to tie up questions of human rights to the question of development. The ability of the Soviet Union to command support for its concept of human rights as part of the movement towards peace and development must also not be underestimated. It is due to these factors that the work of the Commission on the Status of Women has changed over the years and in particular it has become more involved in long term programme planning and in the preparation of such things as the Long Term Programme for the Advancement of Women and the Programme for the Decade for Women.

The question of isolation of women into separate organisations is not unique to the Commission on the Status of Women. The emergence of distinct women's groups away from mainstream political activity has been common in the countries of the west which provided the impetus for the original establishment of the Commission. The 1848 Seneca Falls Convention was a breakaway women's group, as were the various WINGOs, established mostly for women only, and this theme of separate and entirely female groups is continued today in such things as the Womens Section of the British TUC and "women only" womens' liberation groups. The merits and demerits of this approach have long been debated through this issue has not been raised in the Commission. The decision to establish a women's commission was taken by the delegates of the San Francisco Conference and the decision to bring the Commission out of isolation was taken by the General Assembly. If members of the Commission had any views at all on these matters they did not raise them in the meetings of the Commission itself.

Neither has the Commission begun to question its role in the 1980s. In the Report of the Committee of Experts set up to investigate the workings of the social and economic organs of the United Nations it was suggested that the Commission on the Status of Women be discontinued and that its work could adequately be done by ECOSOC.<sup>3</sup> Although it is unlikely that this suggestion will be taken up in the near or even the foreseeable future it provides a starting point for a discussion of the usefulness or otherwise of the Commission. As can be seen from a description of the work of the Commission, its two main functions lie in international standard setting activities and in supervising the implementation of such standards as are adopted by the international

community. With the adoption by the General Assembly of the 1980 Convention on the Elinination of All Forms of Discrimination Against Women it would appear that, at least for a time, no new efforts will be initiated in elaborating new instruments of international law relating to the status of women. As has been stated several times and as is obvious from chapter 8 the 1980 Convention is maximalist in that it covers all the areas of political, economic and social life in which women might be subject to discrimination. Unless separate instruments were to be adopted refining still further some of the articles of the Convention it is difficult to see exactly what new treaties could be adopted. More likely the next ten years or so will witness a lull in the refinement of further instruments whilst emphasis will be switched to attempts at implementation and enforcement of the 1980 Convention. Therefore one aspect of the work of the Commission has to all intents and purposes, come to an end.

In principle the supervisory activity should therefore become of central importance to the life of the Commission. However as becomes clear from an analysis of the various reporting measures described in Chapter 5 above such reporting procedures have been rather unsuccessful both in attracting relevant replies and in the inability of the Commission to adopt methods of analysis and to develop a thorough going system of enforcement or sanction against transgressors. This is not a problem peculiar to the Commission on the Status of Women, it is one shared by all international organisations concerned with human rights. However, the failure of the Women's Conference is two fold in that it has not only failed to develop successful procedures but also it apparently has failed to perceive that this is in fact a problem. The Commission should endeavour to adopt and experiment with techniques to ensure the implementation of the rules which it has elaborated.

As a further point to this it should be noted that the Commission has only a minor role to play in the procedures foreseen in the 1980 Convention, and that the Convention makes no mention of the relationship between reporting procedures adopted under the terms of other previous conventions or of the 1967 Declaration but presumably at some point these procedures will need to be rationalized and the most logical outcome would be to subsume other reports procedures under that of the 1980 Convention. However this is a development for the

future and until it occurs the Commission will retain its supervisory role and the problem remains of how to ensure the effectiveness of this role. Failure to do so must seriously call into doubt the usefulness of the continued existence of the Commission.

As if to reinforce this conclusion the 1970s saw the development of three programmes relating to women which bypass the Commission almost entirely; the World Plan of Action, adopted at the 1975 Mexico Conference; the United Nations inter-organisational programme for women, adopted subsequently to the Mexico Conference; and the Programme for the Decade, which although formally adopted by the Commission is based on decisions taken elsewhere and which the Commission has no power to amend. In practice, therefore, the Commission has become somewhat redundant and its role undermined by the other parts of the United Nations system. In a sense this type of programme is just too big for the Commission to handle, neither does it have the power to investigate or criticize activities undertaken elsewhere. Accordingly the Commission will have to be strengthened or it will gradually fade into complete insignificance and its abolition will become a matter of course. The problem facing the Commission then is one of a redefinition of its role for the 1980s.

The problem of enforcement and implementation of the international legal standards relating to women remains the most acute. It is here that the Commission will have the opportunity to expand its role. What is required is a policy of commitment to the reporting procedures entrusted to the Commission. A mere note of the Secretary General's report is insufficient yet this has been the action of the Commission in the past. This type of bureaucratic response is ineffectual. The Commission must adopt a more critical and political response. It must investigate shortcomings and be prepared to ask difficult questions. However the present structure of the Commission makes this kind of statement mere utopianism. A Commission composed of government representatives can only be of limited value in such investigations and the experience of the Commission on Human Rights has shown quite clearly the ability of States to effectively block any international attempts at investigating shortcomings in the human rights field. It may be therefore that the Commission is unable to meet the demands of the 1980s. If this, is the case its continued existence is no longer justified.

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